

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555-scc

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6 In the Matter of:

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8 LEHMAN BROTHERS HOLDINGS INC.,

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10 Debtor.

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14 U.S. Bankruptcy Court

15 One Bowling Green

16 New York, New York

17
18 February 6, 2017

19 9:33 AM

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23 B E F O R E :

24 HON SHELLEY C. CHAPMAN

25 U.S. BANKRUPTCY JUDGE

1 Trial on Lehman's Objection to Claims of QVT (Doc #17468
2 Debtors' One Hundred Fifty-Fifth Omnibus Objection to
3 Claims)

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25 Transcribed by: Sherri L. Breach

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1 P R O C E E D I N G S

2 THE COURT: How is everyone?

3 UNIDENTIFIED SPEAKER: Good. Thank you.

4 THE COURT: Good weekend? Super Bowl, some
5 watched, some people didn't. So we're starting with Mr. Fu
6 this morning, yes?

7 MR. BECK: Yes, Your Honor.

8 MR. TRACEY: Yes, Your Honor.

9 THE COURT: All right. I'm ready when you are.

10 MS. SAWYER: Your Honor, we actually have some
11 exhibits we marked over the weekend I would like to --

12 THE COURT: Sure.

13 MS. SAWYER: -- hand up. We have copies
14 electronically and hard copy.

15 THE COURT: Sure.

16 So speaking of housekeeping matters, I'm not -- I
17 think we've been receiving PDFs of the rough -- of the real
18 time transcript. I think that's right.

19 MS. SAWYER: You've been receiving a PDF of one
20 rough, but since then we've only been sending the finals.

21 THE COURT: Okay. Do I have the -- I have the
22 finals?

23 MS. SAWYER: We haven't received Friday's final --

24 THE COURT: Okay.

25 MS. SAWYER: -- but we've received all of them --

1 THE COURT: Just by PDF or by hard copy?

2 MS. SAWYER: Just by PDF. But we did provide hard
3 copies.

4 THE COURT: Would you mind --

5 MS. SAWYER: That's fine.

6 THE COURT: -- two copies of the -- of -- I don't
7 need the rough, just the final.

8 MS. SAWYER: Okay. Absolutely --

9 THE COURT: That will be great.

10 MS. SAWYER: -- Your Honor.

11 THE COURT: Okay. And these are --

12 MS. SAWYER: These are additional debtors'
13 exhibits. There's a list, hard copies and electronic
14 copies.

15 THE COURT: Okay. And Hogan Lovells has these?

16 MS. SAWYER: Yes. We sent them over last night.

17 THE COURT: Okay. Great.

18 MR. BECK: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MR. BECK: QVT calls Tracy Fu.

21 THE COURT: Very good.

22 MR. BECK: And we have exhibit binders. You just
23 need one copy or --

24 THE COURT: Two. Ms. Eisman (ph) will be joining
25 me shortly.

1 MR. BECK: May I approach?

2 THE COURT: Yes.

3 (Pause)

4 THE COURT: Hello, Mr. Fu. Would you stand up,
5 please? Would you raise your right hand?

6 TRACY FU, WITNESS, SWORN

7 THE COURT: Very good. Have a seat. Make
8 yourself comfortable. Let us know if you need a break at
9 any time.

10 DIRECT EXAMINATION

11 BY MR. BECK:

12 Q Good morning, Mr. Fu. Could you please state your name
13 for the record?

14 A Tracy Fu.

15 Q And who is your current employer?

16 A QVT Financial.

17 Q And what is your job title at QVT Financial?

18 A I'm a managing partner.

19 Q And as a managing partner what are your -- what is your
20 role and responsibilities at QVT Financial?

21 A As a managing partner I sit on the investment committee
22 and I also have a particular responsibility for a part of
23 the -- a portion of the portfolio.

24 Q And what portion of the portfolio are you responsible
25 for?

1 A Convertible bonds.

2 Q And when you say responsible are you actively trading
3 that portion of the portfolio?

4 A Yes.

5 Q And taking a step back could you just explain to the
6 Court your educational background beginning with college?

7 A I have a bachelors degree in applied physics from
8 California Institute of Technology and I have a masters
9 degree in electrical engineering from the University of
10 California at Berkley.

11 Q And what did you do after you graduated from Berkley?

12 A I went to go work at Deutsche Bank.

13 Q And about how long did you stay at Deutsche Bank?

14 A Ten years.

15 Q And where did you go after you left Deutsche Bank?

16 A A group of us all left Deutsche Bank together to form
17 QVT Financial.

18 Q And have you been at QVT continuously ever since then?

19 A Yes.

20 Q And so sort of turning to the dispute at hand where
21 were you on the day that LBHI filed bankruptcy September
22 15th, 2008?

23 A I was in the office.

24 Q And were you involved in the process of deciding to
25 terminate QVT's ISDAs facing LBSF?

1 A I was peripherally involved and I agreed with the
2 decision.

3 Q And sitting here today are you aware that QVT did, in
4 fact, terminate those ISDA agreements facing LBSF on
5 September 15th, 2008?

6 A Yes.

7 Q And after those agreements were terminated what role,
8 if any, did you have in valuing the underlying transactions
9 for purposes of a loss determination under those ISDA
10 agreements?

11 A I valued a handful of contracts, some credit default
12 swaps and two interest rate swaps.

13 Q And since QVT filed its proof of claim against the
14 Lehman estate what has been your involvement in the
15 litigation over the ensuing seven years?

16 A Other than preparing for this testimony today, none.

17 Q And so turning to the specific positions that you
18 valued facing LBSF can you sort of generally describe what
19 those positions were?

20 A It was a few credit default swaps and two interest rate
21 swaps.

22 MR. BECK: So I'm going to ask that we put Exhibit
23 2108 up on the screen, which is a native Excel spreadsheet.
24 And can we give the witness control of the (indiscernible).

25 BY MR. BECK:

1 Q So, Mr. Fu, if you'll -- if I can direct you to the
2 Lehman positions master tab, and you have to scroll over.
3 We're in the redacted part. If you'll go to Column BC and
4 filter that column for the positions that you marked,
5 please.

6 (Pause)

7 A I'm heading over to Column BC and I am going to filter
8 on the ones that are marked by me. Sorry. Okay.

9 Q And could you identify for the Court the row numbers of
10 the CDS positions there that you marked?

11 A Sure. It's Rows 218 and 19 and Rows 660 to 669.

12 Q And how did you value the CDS position?

13 MS. DEL MEDICO: Your Honor, I just --

14 THE COURT: Hold on just a second.

15 MS. DEL MEDICO: -- I just wanted to object to the
16 demonstrative to the extent it doesn't have all the
17 positions on it that he just said that he was valuing.

18 MR. BECK: Yes, Your Honor. The demonstrative
19 only shows the QVT positions, not the Quintessence, so the
20 odd numbers are the Quintessence positions.

21 MS. DEL MEDICO: Okay.

22 THE COURT: Okay. All right. Thank you.

23 BY MR. BECK:

24 Q And how did you value the positions in Row 218, 219 and
25 660 through 669?

1 A We used Markit data.

2 Q And what date or dates did you use for the Markit data?

3 A I'm scrolling over to Column Y and the dates are put in
4 Column Y. You can see that most of the contracts are valued
5 for 9/16 and there are two that are valued for 9/18.

6 Q And can you identify by row number the single name CDS
7 positions that you valued using 9/16 Markit data?

8 A Those are Rows 660 to 669.

9 Q And for those positions where you use 9/16 Markit data
10 why did you use that date?

11 A That was the default date that we had agreed to.

12 Q And I think you said there were two positions where you
13 use 9/18 data. Could you please identify that by row number
14 for the Court?

15 A Those are rows 218 and 219.

16 Q And for those positions do you recall why you used
17 9/18/2008 as the mark -- for the Markit data?

18 A I don't recall.

19 Q And did you make any bid-mid adjustment to the Markit
20 data for the positions that you used that data to evaluate?

21 A I used the default bid-mid spread which is ten percent.

22 Q And when you say default what do you mean by that?

23 A That was the amount that we put all the contracts
24 under. That was the spread that we used for all of our
25 contracts unless there was a reason why the spread would be

1 different.

2 Q And did you value any other positions facing LBSF other
3 than the CDS that we just went through?

4 A Yes, two interest rate swaps.

5 Q And could you go to the rows on the Excel that show the
6 interest rate swaps?

7 A These are Rows 1392 to 1395.

8 Q And how did you value the interest rate swaps?

9 A With a Bloomberg interest rate swap calculator.

10 Q And in your experience is the Bloomberg interest rate
11 swap calculator a common way to value interest rate swaps?

12 A Yes.

13 Q And have you valued interest rate swaps using the
14 Bloomberg interest rate swap calculator on other occasions?

15 A Yes.

16 Q And at any time in your experience have you used
17 anything other than the Bloomberg interest rate swap
18 calculator to value an interest rate swap?

19 A No.

20 Q And what date did you use to value the interest rate
21 swap as of?

22 A It's 9/15/08.

23 Q And if we can turn to Exhibit 1568 which I believe is
24 the second tab in your book.

25 (Pause)

1 Q Do you recognize this document?

2 A Yes.

3 Q And what is this document?

4 A This is an e-mail from my Bloomberg terminal that I
5 sent to the Lehman central repository and it's -- I'm
6 sending a screenshot of the interest rate swap valuation I
7 did.

8 Q And what is the date of this e-mail?

9 A Sunday, September 28th, 2008.

10 Q And if you will turn the page to the attachment to this
11 e-mail, do you recognize this document?

12 A Yes.

13 Q And what is this document?

14 A This is the Bloomberg valuation that I was referring
15 to, so this is what the calculator looks like and -- so this
16 is a valuation we did.

17 Q And can you sort of explain to the Court what
18 information is being conveyed in this screenshot?

19 A Sure. This is basically everything you need to value
20 the swap. You see here there's the notional of 200 million.
21 And an interest rate swap has two legs, a fixed leg and a
22 floating leg. In this example we are paying fixed and
23 receiving floating. There's a maturity here, November 20th,
24 2009. You can see it's the same on both legs, both the
25 fixed leg and the floating leg. And there's -- you can see

1 what the fixed coupon is, it's 421. And down here the
2 valuation you can see the curve that we use. It says
3 9/15/08.

4 Q And as it relates to the date of the valuation, what
5 does the curve 9/15/2008 mean?

6 A 9/15/08, that curve -- that means we used interest
7 rates coming from that date, 9/15/08.

8 Q And how do you know what curve was used?

9 A It says here we basically -- I mean, we used a standard
10 default curve.

11 Q And did you change Bloomberg's default curve?

12 A No. I didn't know how to do that at the time.

13 Q Is there anything else on this screenshot that tells
14 you that it was valued as of 9/15/2008?

15 A Well, the other thing that tells you that is the number
16 to the right. It says valuation here, but this is really a
17 settlement date which comes two days after the curve date.
18 And that's 9/17/08 which is two plus two from 9/15.

19 Also you can go and calculate the accrued interest
20 for each of these legs. You can see it's written out here
21 for the fixed leg 2,736,500 and for the floating leg 437,111
22 spot 11. If you go and do the math there's 117 days of
23 accrued interest in the fixed leg accruing from May 20th to
24 9/17. And you can multiple 117 divided by 360 times 200
25 million times 4.21 percent and you will get exactly this

1 number.

2 Also, you can go to the floating leg which is
3 accruing interest from August 20th, 2008 because it pays
4 quarterly. So there's only 28 days of accrued in there, and
5 so you take 28 divided by 360 times the interest rate here.
6 You see it's the latest index is 281 times 280 million and
7 you will get this exact number, 437,111 spot 11.

8 So that leads me to believe that this was valued
9 on 9/15/08.

10 Q And does the settlement date being 9/17/2008 have any
11 effect on the valuation being as of 9/15/2008?

12 A It tells you that's what the accrued -- that's what --
13 because like the standard settlement is to do two days, to
14 settle two days after that you would value it. So if it's
15 settling on 9/17 that also means you're valuing it on 9/15.

16 Q And remind us again what the notional is on this
17 screenshot?

18 A It's 200 million on both legs, the same.

19 Q And is that the same notional as QVT and Quintessence
20 had combined against LBSF?

21 A No.

22 Q What combined notional did QVT and Quintessence have
23 facing LBSF?

24 A It's 182 and a half million.

25 Q And why do those two numbers not match?

1 A Because there was a third leg of the swap that was done
2 by someone else, not QVT or -- I mean, not QVT Fund or
3 Quintessence Fund.

4 Q And if those three are combined together what number
5 would you get?

6 A You would get 200 million.

7 Q And if we could go back to Exhibit 2108.

8 (Pause)

9 Q So I believe you said earlier that the interest rate
10 swaps were in Rows 1392 through 1395. I'm just going to
11 take you through the rows one at a time so you can explain
12 --

13 A Sure.

14 Q -- what we're looking at. Let's start with Row 1392.
15 Can you --

16 A 13 --

17 Q -- explain to the Court what that row has in it?

18 A Yes. 1392 has a total of 200 million.

19 Q And that 200 million is derived from where?

20 A That's the same number that we're using for the total
21 of all the legs and that's what we're using in the
22 screenshot.

23 Q And what is the market value of that 200 million
24 notional interest rate swap?

25 A I'm going over to Column AO. You can see it's right

1 here. It's 5,135,334 and that is the same number that was
2 on the screenshot on the Bloomberg.

3 Q So if we can go back to Exhibit 1568. Can you show me
4 where that number is?

5 A So -- yeah. I can see here 5,135,334. It's exactly
6 the same number.

7 Q Thank you. And can we go back to 2108.

8 So now looking at Row 1393, what is in that row?

9 A 1393 you can see here in Column B it's the -- the name
10 of the instrument and so it's the interest rate swap, but it
11 says here -- it's labeled QVT so that's the QVT Fund portion
12 of the 200 million.

13 Q And so does that mean that the 1394 is the Quintessence
14 position?

15 A That's correct. And it's labeled as such.

16 Q And is the 1395 the third position that you referenced
17 earlier?

18 A Yes. And that's -- and the DB there stands for
19 Deutsche Bank.

20 Q And so going back to 1393 what is the valuation that is
21 ascribed to the QVT interest rate swap position?

22 A It's 4,236,651. You can look in the spreadsheets. You
23 don't have to do the math in your head and you can see that
24 the formula is here. It's taking the 5,135,334. It's
25 multiplying it by C1393 which is 165 million and dividing by

1 C1392 which is 200 million.

2 Q So if I'm understanding you correctly the 4,236,651 is
3 the QVT position's pro rata share of the --

4 A 200 million.

5 Q -- aggregate --

6 A Yeah.

7 Q -- the 200 million.

8 A That's correct.

9 Q Okay. And now moving to Row 1394, what is this row?

10 A This is the Quintessence row and so you can see also if
11 you look at the formula here we're taking, you know, the
12 5,135,334. We're multiplying by seventeen and a half
13 million and dividing by 200 million and the answer is
14 449,342.

15 Q Now if you'll turn to Exhibit 88 which is the first tab
16 in your binder.

17 (Pause)

18 Q Do you recognize this document?

19 A Yes. It's an e-mail exchange between me and Joel
20 Wohlman.

21 Q And what is the date of this e-mail exchange?

22 A October 7th, 2008.

23 Q And what is Mr. Wohlman asking you?

24 A He's asking me, "Do you have calculation support for
25 the interest rate swap you calculated for the Lehman claim?"

1 A And what is your response?

2 A That I used Bloomberg to value this on 9/12/08.

3 Q Now I think we had just discussed in the context of 15
4 -- Exhibit 1568 that you used 9/15 to value the interest
5 rate swap. How do you explain the reference to 9/12 in this
6 e-mail?

7 A This is a mistake.

8 Q And I think you -- going up the chain what does Mr.
9 Wohlman ask you to do?

10 A He said, "Thanks. Did you send a screenshot to Lehman
11 at QVT.com?"

12 Q And what is your response?

13 A I said, "No, I will."

14 Q And I think we have discussed in the context of Exhibit
15 1568 that you sent a screenshot to the Lehman repository on
16 September 28th, 2008, so how do you explain your statement
17 that you will send one over a week later?

18 A It's a mistake as well.

19 Q And did you send any other Bloomberg screenshot to the
20 Lehman repository at any time during this period?

21 A Not that I recall.

22 Q Have you since gone back and tried to determine whether
23 or not you did, in fact, value the interest rate swap as of
24 9/15/2008?

25 A Yes, I have.

1 Q And what did you do?

2 MS. DEL MEDICO: Your Honor, excuse me. We have
3 an objection to this. This is post-hac analysis on what he
4 did after the fact to try to, you know, back test his
5 methodology and what he did. He just testified what he did
6 at the time. I think what he's doing afterwards to try to
7 prove what he did at the time is inappropriate.

8 MR. BECK: Your Honor, so this is not back testing
9 a methodology. This is a response to Lehman arguing that
10 this e-mail that says 9/12 somehow trumps the actual
11 Bloomberg screenshot that says 9/15.

12 THE COURT: So --

13 MR. BECK: The methodology is the same in both
14 cases.

15 THE COURT: Okay. So the issue is whether as a
16 fact the position was valued as of September 12th or
17 September 15th. That's the issue, correct?

18 MS. DEL MEDICO: Correct.

19 THE COURT: So to the extent that these questions
20 are designed to test the witness's recollection about the as
21 of date when he valued it it's admissible. It's not
22 admissible as some sort of corroborative back test of what,
23 in fact, was done. All right.

24 MS. DEL MEDICO: Okay. Uh-huh.

25 THE COURT: Okay.

1 Do you remember the question, Mr. Fu?

2 THE WITNESS: Yes. I did try to reproduce this
3 calculation.

4 BY MR. BECK:

5 Q And what were the results of that?

6 A When I first did it I got a different answer trying --
7 when I tried to historically recreate the 9/15/08 valuation.

8 Q And what is your understanding of why you got a
9 different answer?

10 A I -- as I understand it that the default curves that
11 Bloomberg was using in 2008 --

12 MS. DEL MEDICO: Objection.

13 THE COURT: Hold on. Yes.

14 MS. DEL MEDICO: Yeah. I mean, first of all he's
15 saying --

16 THE COURT: One second. One second.

17 MS. DEL MEDICO: Sure.

18 (Pause)

19 THE COURT: Okay. I need you to be closer to the
20 mic, please.

21 MS. DEL MEDICO: Me?

22 THE COURT: Yes.

23 MS. DEL MEDICO: Sure. Sorry about that.

24 THE COURT: Okay.

25 MS. DEL MEDICO: Whoa.

1 (Laughter)

2 THE COURT: Not that close.

3 MS. DEL MEDICO: The first part of the objection
4 is a foundational objection. I'm not sure how he would know
5 how things changed on Bloomberg.

6 The second part of the objection is, you know,
7 he's trying -- I don't see how -- this is again goes to the
8 back testing point. It's him trying to recreate what he did
9 and kind of this is an issue that the experts are talking
10 about in this case.

11 So I'm unclear as to how this is fact testimony.

12 THE COURT: Okay. So Mr. Fu is a fact witness.
13 Why don't we allow the testimony and then you can ask
14 questions on redirect that would establish the parameters if
15 you will of what he did to verify the work that he did in
16 the appropriate time frame as opposed to anything that was
17 done afterwards to justify it.

18 To the extent that you have a question about the
19 recreation of the Bloomberg screens that existed at the
20 relevant time and how he was able to tell, that's
21 appropriate for cross-examination.

22 So let -- let's let the questioning proceed. All
23 right.

24 MS. DEL MEDICO: Uh-huh.

25 BY MR. BECK:

1 Q I'll just repeat the question. What is your
2 understanding of why you were unable to recreate the
3 screenshot from September of 2008?

4 A My understanding is that the curves used in 2008, the
5 default curve that Bloomberg used was different than what
6 the default curve that they use today.

7 Q And what is your understanding of the default curve in
8 Bloomberg in 2008?

9 A I believe that they're using cash rates for the first
10 12 months and then swap rates afterwards.

11 Q And what is your understanding of the Bloomberg default
12 curve today?

13 A It's cash rates for the first three months, futures
14 from three to 12 months, and then swap rates afterwards.

15 Q And once you have this understanding --

16 MR. BECK: You have a question, Your Honor?

17 THE COURT: Yes. So now I'm confused, Mr. Fu. So
18 can you go back to the exhibit that's marked as Joint
19 Exhibit 0088 which is an e-mail exchange between you and Mr.
20 Wohlman? And he says, "Thanks. Did you send a screenshot?"
21 And you said, "No, I will." And you said that was a
22 mistake.

23 So is the mistake that you had -- in fact, had
24 sent the screenshot?

25 THE WITNESS: Yes.

1 THE COURT: So then if you had sent the screenshot
2 then -- and is the screenshot the exhibit that's marked as
3 -- that's in your binder as 1568?

4 THE WITNESS: Correct.

5 THE COURT: So then I guess my confusion is then
6 you have that screenshot. That screenshot foots with the
7 numbers on the spreadsheet.

8 THE WITNESS: Correct.

9 THE COURT: So then what happened? If that
10 screenshot foots with what's on the spreadsheet why is there
11 any analysis of some other screenshot?

12 THE WITNESS: There is no other screenshot. I'm
13 just trying to reproduce this screenshot today.

14 MR. BECK: The issue, Your Honor, is Lehman has
15 focused on this e-mail saying 9/12 and then when they try to
16 recreate Mr. Fu's screenshot from 2008 they can't because
17 the default curve has changed. That's the issue.

18 THE COURT: But there is -- but this is -- then
19 this is an authenticity issue. If there's no question but
20 that the screenshot that is at Exhibit 1568 is, in fact, the
21 Bloomberg screenshot from that date --

22 MS. DEL MEDICO: There are other issues with the
23 screenshot, Your Honor. If I can approach to --

24 THE COURT: Sure. Come on up.

25 (Sidebar discussion held off the record)

1 (At 10:01 a.m.)

2 MR. BECK: Thank you, Your Honor.

3 BY MR. BECK:

4 Q So I believe we were talking about your understanding
5 of the difference of the Bloomberg default curve between
6 2008 and 2016. Once you reached an understanding of that
7 change were you able to recreate your screenshot from
8 September 2008?

9 A Yes. I created it to the -- we created it to the
10 penny.

11 Q And at any time did you try to recreate the screenshot
12 using a 9/12/2008 date?

13 A I did and I was not able to get it to match.

14 Q And were you able to get it to match under either or
15 not get it -- able to match under either the 2008 default
16 curve as your understanding or the 2016 default curve?

17 A That's correct. I used both curves to value it and
18 neither matched.

19 MR. BECK: Pass the witness, Your Honor.

20 THE COURT: Thank you.

21 MS. DEL MEDICO: Your Honor, could I have two
22 minutes?

23 THE COURT: Sure.

24 MS. DEL MEDICO: Thank you.

25 (Pause)

1 MR. BECK: Your Honor, we have some --

2 THE COURT: Yes.

3 MS. DEL MEDICO: -- witness binders that we would
4 like to --

5 THE COURT: Okay.

6 MS. DEL MEDICO: -- pass up.

7 THE COURT: Should I put this aside?

8 MS. DEL MEDICO: Please.

9 THE COURT: Okay.

10 (Pause)

11 CROSS-EXAMINATION

12 BY MS. DEL MEDICO:

13 Q Mr. Fu, could you please turn to Exhibit 5933 in your
14 book? And Exhibit 5933 is a demonstrative.

15 MS. DEL MEDICO: Randall, can you put it on the
16 screen.

17 BY MS. DEL MEDICO:

18 Q What we did was we filtered, like you just showed us
19 before, Column BC for TF and TF is you, correct?

20 A Correct.

21 Q And what shows -- what's on the screen right now are
22 the positions that are -- or some of the positions that you
23 valued in connection with QVT's claim against Lehman, right?

24 A Correct.

25 Q And if you look at Lines 218 and 219 you valued the

1 tie-fi's in the copper account using Markit data for
2 9/18/2008, right?

3 A Correct.

4 Q And Markit data for those positions were -- was
5 available on September 15th, 2008, right?

6 A I don't know.

7 Q And you told -- you said on direct that there was an
8 agreed upon default of ten percent for bid-mid and that's
9 shown in Column W, correct?

10 A That's correct.

11 Q Who agreed upon that?

12 A I don't recall.

13 Q That's not an agreement you had with Lehman, is it?

14 A I wouldn't think so.

15 Q Did you do any independent calculations or valuations
16 to figure out if ten percent was an appropriate bid-mid
17 spread?

18 A I did not.

19 Q And if you look at Column C, that shows the notional of
20 the positions that you valued, these 12 positions, correct?

21 A That's correct.

22 Q And the notionals range from 440,000 to about 1.5
23 million. Do you see that?

24 A Well, there's larger ones than that, too, right?
25 There's eleven and a half million.

1 Q I'm sorry. I misspoke, eleven and a half million. Do
2 you see that?

3 A Yes. I do see that.

4 Q Okay. And you used a bid-mid spread of ten percent
5 regardless of the notional, the positions; is that right?

6 A That's correct.

7 Q In Column M you can see the maturities of the
8 positions; is that right?

9 A Yes.

10 Q And they're not all the same, you agree?

11 A I agree.

12 Q And so you used a bid-mid spread of ten percent
13 regardless of the maturity date?

14 A That's correct.

15 Q Now you didn't try to replace any of these positions on
16 9/15/2008, did you?

17 A I did not.

18 Q But you could have, right?

19 A I don't know.

20 Q Mr. Fu, can you go to Exhibit CX-1568?

21 (Pause)

22 Q And this is the e-mail from you to the Lehman -- to
23 Lehman which is that a Lehman@QVT inbox?

24 A Yes.

25 Q And it attaches the Bloomberg that we were just

1 discussing before, correct?

2 A That's correct.

3 Q Now if you look at the bottom left tab or the bottom
4 left of this Bloomberg screen you see that there is a main
5 tab, correct?

6 A That -- yes. And it's highlighted. That means you're
7 on the main tab.

8 Q So this -- so what I'm seeing here is the main tab,
9 correct?

10 A That's correct.

11 Q And there are other tabs here, right, like curves and
12 cash flow?

13 A That's correct.

14 Q And you didn't attach any of the other tabs to your e-
15 mail, correct?

16 A I did not.

17 Q And so there's information under these other tabs that
18 we can't see here; is that right?

19 A Yes.

20 Q And looking at this screenshot on its face it doesn't
21 indicate the bench mark instruments on which the curve was
22 built; is that right?

23 A Well, it says the discount curve is Number 23.

24 Q On the face of this document does it tell us what
25 Number 23 means?

1 A No.

2 Q And on the face of this screenshot it doesn't indicate
3 the actual price levels of the bench mark instruments; is
4 that right?

5 A That's correct.

6 Q Mr. Fu, have you been using Bloomberg since the mid-90s
7 would you say?

8 A Yes.

9 Q And have you been valuing interest rate swaps that
10 long?

11 A Not since the mid-90s.

12 Q How long would you say you've been valuing interest
13 rate swaps?

14 A Maybe since 2005 or 6 or something.

15 Q Okay. So there's no way to tell conclusively based on
16 the face of this screenshot how the curve was constructed to
17 come up with the valuation, right?

18 A From this screenshot, no.

19 Q Just this screenshot alone.

20 A Just this screenshot alone, no.

21 MS. DEL MEDICO: One minute, Your Honor.

22 (Pause)

23 MS. DEL MEDICO: Your Honor, I have no further
24 questions, but Lehman reserves the right to call this
25 witness. He's on our witness list.

1 THE COURT: All right.

2 Yes.

3 MR. BECK: I have no further questions, Your
4 Honor, but I don't think Mr. Fu is on their witness list,
5 but that's fine if --

6 UNIDENTIFIED SPEAKER: He is.

7 MS. DEL MEDICO: He is.

8 MR. BECK: No further questions.

9 THE COURT: Okay. All right. Mr. Fu --

10 THE WITNESS: Thank you.

11 THE COURT: -- you're excused. I understand you
12 have jury duty.

13 THE WITNESS: Yes.

14 (Laughter)

15 THE WITNESS: Thank you.

16 THE COURT: Well, you can report back to us on
17 which Court is more enjoyable.

18 (Laughter)

19 THE COURT: Thank you for coming in. We
20 appreciate it.

21 All right. Are we ready to go back to Mr. Chu?

22 MR. TAMBE: That's right, Your Honor.

23 THE COURT: Okay.

24 MR. TAMBE: Can I just have a couple minutes to --

25 THE COURT: Sure.

1 MR. TAMBE: -- set stuff up and --

2 THE COURT: Yes. Of course.

3 (Pause)

4 THE COURT: Okay.

5 MR. TRACEY: And we would have assumed he would be
6 here by now.

7 THE COURT: Okay.

8 MR. TRACEY: But he doesn't appear to be.

9 THE COURT: He doesn't appear to be. Okay. So
10 why don't we just take a break and you can try to figure out
11 where he is and we'll just start whenever he gets here.

12 MR. TRACEY: Okay. Apologies, Your Honor.

13 THE COURT: No problem.

14 (Recessed at 10:16 a.m.; reconvened at 10:29 a.m.)

15 THE CLERK: All rise.

16 THE COURT: Have a seat.

17 Welcome back, Mr. Chu.

18 THE WITNESS: Thank you, Your Honor.

19 (Pause)

20 CROSS-EXAMINATION, CONT'D.

21 BY MR. TAMBE:

22 Q Good morning, Mr. Chu.

23 A Good morning, Mr. Tambe.

24 Q I want to go back a little bit to CARB and just touch
25 on a couple of issues we talked about on Friday.

1 A Okay.

2 Q One of the thing we had talked about last Friday was
3 the remittance report for one of the (indiscernible). Do
4 you recall that testimony?

5 A I do.

6 Q And I think we were talking about Tab 121 in the binder
7 that I have given you.

8 A Yes. I'm there. Thank you.

9 Q And that is Exhibit CX-1354. And that was the
10 remittance report for the month of August 2008, correct?

11 A Yes.

12 Q And I think you told us on Friday that's not a document
13 you had consulted in connection with your CARB valuation?

14 A That's correct.

15 Q Okay. There was also a report for September 2008 for
16 each of these (indiscernible), correct?

17 A Yes.

18 Q And that's a report that could have told you whether in
19 the month of September 2008 following Lehman's bankruptcy
20 there was a deterioration in the performance of the
21 underliers, correct?

22 A Yes. It would have told you what happened in
23 September. Correct.

24 MR. TAMBE: If I can approach, Your Honor?

25 THE COURT: Yes.

1 (Pause)

2 BY MR. TAMBE:

3 Q Mr. Chu, I've handed you the document marked Exhibit
4 5574. And it's not in the binder. It's a document that was
5 previously marked as an exhibit. And if you could take a
6 moment to look at this document. Let me know when you're
7 done. I have a few questions for you on this document.

8 (Pause)

9 MR. TRACEY: Your Honor --

10 THE COURT: Yes, Mr. Tracey.

11 MR. TRACEY: -- I don't have an objection to this
12 document to the extent that it -- there's no foundation that
13 it was issued before the (indiscernible) of the calculation
14 statement. If that foundation is laid I have no objection
15 to it.

16 THE COURT: Okay.

17 (Pause)

18 THE COURT: I'm sorry. Did Mr. Chu say he's ever
19 seen this document before?

20 MR. TAMBE: I mean, I've just asked him to look at
21 the document. I haven't asked him a question about it yet.

22 THE COURT: Okay.

23 (Pause)

24 THE WITNESS: Okay. I've looked through it.

25 BY MR. TAMBE:

1 Q And you generally recognize the form of this document,
2 correct?

3 A Yes.

4 Q Okay. You see it carries a date of 10/15/2008. Do you
5 see that?

6 A I do.

7 Q And it says right above that, collection period
8 September 2008. Do you see that?

9 A Yes.

10 Q Is this a document you consulted in connection with
11 your prep -- the preparation of the calculation statement?

12 MR. TRACEY: Objection, Your Honor.

13 THE COURT: Yes.

14 MR. TAMBE: The question --

15 THE COURT: Objection is the foundation objection?

16 MR. TRACEY: Correct.

17 THE COURT: Okay.

18 MR. TAMBE: The question simply is, Your Honor, is
19 this a document that he consulted in connection with the
20 calculation statement.

21 THE COURT: Go ahead, Mr. Tracey.

22 MR. TRACEY: I object on the ground of lack of
23 foundation. If this document wasn't available at the time
24 that the calculation statement was made, the questioning
25 about whether he did or did not consult it couldn't possibly

1 be relevant and there's no foundation that he could have
2 reviewed it.

3 So I do object on relevance and foundation
4 grounds, I mean.

5 THE COURT: Okay. Go ahead.

6 MR. TAMBE: Two problems with that, Your Honor.

7 THE COURT: Yes.

8 MR. TAMBE: I think with respect to the last
9 document we talked about I think Mr. Chu had said that the
10 date of 9/15/2008 for the other document --

11 THE COURT: Right.

12 MR. TAMBE: -- would be the date on which it was
13 issued or shortly thereafter.

14 THE COURT: Okay.

15 MR. TAMBE: All right.

16 THE COURT: So you can ask him about -- you can
17 ask him a question --

18 MR. TAMBE: Yeah. Sure.

19 THE COURT: -- along those lines with respect to
20 this document.

21 MR. TAMBE: Okay.

22 BY MR. TAMBE:

23 Q You see the date of 10/15/2008 on it?

24 A I do.

25 Q And do you have any reason to believe it wasn't issued

1 on 10/15/2008?

2 A I'm not sure it was issued on 10/15/08 or whether it
3 was slightly thereafter. I don't know the exact date.

4 Q But in any event as you sit here today you know this is
5 not a document you consulted on 10/15/2008 when you
6 submitted your calculation statement?

7 MR. TRACEY: Same objection.

8 THE COURT: All right. But I'll -- but on the
9 narrow question of whether or not he consulted the document
10 you can answer subject to the question, the unanswered
11 question of whether or not it was in existence as of
12 10/15/2008.

13 THE WITNESS: No. I did not consult this
14 document.

15 MR. TAMBE: Okay.

16 BY MR. TAMBE:

17 Q Have you consulted this document since you submitted
18 your calculation statement?

19 A No. I don't think I would have directly consulted this
20 document since then.

21 Q Okay. Did you look at all after you submitted the
22 calculation statement to see how the underlying reference
23 obligations were performed?

24 A Well, you know, in the course of the years that have
25 passed since then I have looked at these bonds. This data

1 is available probably on INTEX and so I suppose indirectly I
2 would have seen this data. I don't know if I saw this
3 month, but, yes, I would have seen performance data
4 thereafter.

5 Q Okay. And to the extent it was available on INTEX,
6 that would be available to you as soon as was -- as soon as
7 it was posted on INTEXT, correct?

8 MR. TRACEY: Your Honor, I'm going to object to
9 questioning on work or consultations or reviews that Mr. Chu
10 may have done after October 15th. Lehman's counsel has
11 specifically said that those post hac analyses are
12 irrelevant and if -- if it's good for the goose, it's good
13 for the gander. I am not sure --

14 THE COURT: So if this -- this sounds like it's in
15 the category of back testing which I think Mr. Tracey is
16 correct that Lehman has objected to.

17 So is there -- is that, in fact, where you're
18 going with this?

19 MR. TAMBE: No, it's not. It's --

20 THE COURT: Okay.

21 MR. TAMBE: -- based on the last answer he gave
22 where he added that this data is available probably on
23 INTEX. And so he doesn't have to wait for this to be
24 published and mailed through snail mail. If this is
25 available on INTEX it was available to him on 10/15/2008.

1 THE COURT: All right. On -- based on that you
2 can continue. So it's -- the question is the availability
3 of this data, data like this on INTEX as of the time the
4 calculation was done.

5 BY MR. TAMBE:

6 Q And you didn't check INTEX to see if this data was
7 available --

8 THE COURT: Okay.

9 BY MR. TAMBE:

10 Q -- as of the time you did the calculation?

11 THE COURT: Hold on, Mr. Tambe.

12 MR. TRACEY: I'm sorry.

13 THE COURT: Go ahead.

14 MR. TRACEY: If Mr. Tambe is trying to lay a
15 foundation that this information was available to the
16 witness on October 15th or earlier I have no objection to
17 that. But he hasn't even tried to establish that.

18 MR. TAMBE: I don't have to lay that foundation,
19 Your Honor. The question is did he even look in INTEX to
20 see if this data was available. It's what he didn't do
21 that's relevant to the arguments we're making. He picked a
22 methodology and went forward and ignored information that
23 was available to him.

24 MR. TRACEY: It's already established in the
25 record that he didn't review INTEX, so I'm not sure where

1 this is going with this particular document.

2 THE COURT: Well, it can go --

3 MR. TRACEY: If it --

4 THE COURT: -- it can go one of two ways, right.

5 He -- the witness has said he didn't consult INTEX. So then
6 the follow up question would be to probe -- he -- the one
7 answer could be he didn't consult INTEX because he knew this
8 data wasn't available there or he didn't consult INTEX
9 notwithstanding that he knew this data was there.

10 So I think Mr. Tambe is entitled to ask a few more
11 questions to figure out the scope of this witness's
12 familiarity with the data that was on INTEX during the
13 relevant time period.

14 MR. TAMBE: Thank you, Your Honor.

15 THE COURT: All right.

16 BY MR. TAMBE:

17 Q So let me lay some foundational questions, Mr. Chu.

18 A Okay.

19 Q You knew generally with your familiarity with INTEX
20 that information about underlying bond performance reference
21 obligation performance would be available on INTEX, correct?

22 A Yes, albeit possibly with a lag. I think probably with
23 a lag. Yes.

24 Q Okay. And when the information is made available by
25 whatever entity prepares the remittance report, that

1 information is available immediately on INTEX, correct?

2 A Well, as I said I'm not sure it's available
3 immediately. I don't know what the lag between the time
4 this remittance report is issued and the time that INTEX
5 updates their own systems. I don't know what that lag is.

6 Q And in any event you did not consult INTEX at all in
7 connection with your valuation of CARB, correct?

8 A We did not use INTEX for the valuation of CARB.

9 Q And it was available to you. You could have used it
10 had you chosen to use it.

11 A Yes. We had INTEX at the time. Correct.

12 Q And, in fact, earlier in 2008 you had run each of the
13 eight bonds through INTEX, correct?

14 A Yes. Earlier in 2008 I had run the bonds.

15 Q And as a matter of valuing the CARB positions on your
16 books pre-bankruptcy you never revised your valuation
17 methodology based on information you had seen in INTEX,
18 correct?

19 A I don't exactly understand the question. When you say
20 revised our valuation methodology what do you mean?

21 Q Did you change your marks in your books pre-bankruptcy
22 based on information you had seen in INTEX relating to these
23 bonds, the underlying obligations?

24 A So -- sorry, change our marks in our books.

25 Q Yeah.

1 A Well, that's something that we would generally do at
2 month end.

3 Q Uh-huh.

4 A I don't think that -- I mean, you observe a market
5 price or you get a mark or you see a run from Lehman at
6 month end and that gives you your mark whether or not you
7 run it in INTEX. So I'm a little bit not understanding what
8 the question is about.

9 Q The question simply is you have no recollection as you
10 sit here of ever having changed your marks in your books
11 based on information you saw in INTEX, correct?

12 A No, because I think the marks -- INTEX doesn't tell you
13 what the price is. The market tells you what the price is.
14 So INTEX tells you once you know the price if you run the
15 different cash flows what rate of return might you achieve
16 given that price.

17 So I think the answer -- I mean, I'm not totally
18 understanding your question, but I think the answer to your
19 question is, no, we didn't, I think, revise our marks as a
20 result of what an INTEX run.

21 Q And you didn't challenge Lehman's marks based on any
22 information you had seen in INTEX, correct?

23 A No. I don't believe we did that.

24 Q I believe the word you used when you were on direct was
25 it would have been an arduous task, correct?

1 A I think I said the word arduous, yes.

2 Q And by that you mean it would have been hard to do
3 that?

4 A And it would have -- I think it would have been time-
5 consuming or at least my experience had been it was time
6 consuming to do it in the past.

7 Q We talked a little bit yesterday about a set of e-mails
8 you got during the week of 9/15 which provided you with bid
9 asks on the car companies as well as the auto finance
10 companies. Do you recall that?

11 A Are these the Bloomberg run -- the Bloomberg messages
12 from JPMorgan that you're talking about?

13 Q I believe that's right, and there are about four or
14 five lines in each one talking about GM, GMAC, FM, FMCC. Do
15 you remember those?

16 A Yeah. I think I know what you're talking about, but
17 maybe if you want to point me to an actual exhibit I can
18 verify it.

19 Q Okay.

20 THE WITNESS: If I can ask again, is the
21 microphone placement acceptable?

22 THE COURT: Yeah.

23 THE WITNESS: Okay.

24 THE COURT: All good.

25 THE WITNESS: All right.

1 (Pause)

2 MR. TAMBE: We're still looking for an exhibit
3 number that we can use as a frame of reference and I have
4 some other questions --

5 THE COURT: Okay.

6 MR. TAMBE: -- for Mr. Chu.

7 BY MR. TAMBE:

8 Q All right. Let's take a look in Tab 97 of your big
9 binder. And it's Exhibit JX-79. All right. That's one of
10 the documents we were looking at. Do you recall that?

11 A Yes.

12 Q And we looked at a series of them for various days
13 throughout the week of 9/15 --

14 A I --

15 Q -- right?

16 A -- recall that. Yes.

17 Q And you were getting similar e-mails from brokers prior
18 to the week of September 15th, 2000, correct?

19 A Similar Bloomborgs, yes.

20 Q Okay.

21 MR. TAMBE: We have marked some of those as new
22 exhibits, Your Honor. I'll be approaching the witness with
23 respect to those --

24 THE COURT: Okay.

25 MR. TAMBE: -- and provide them to Your Honor as

1 well and the Exhibit 5928.

2 THE COURT: Thank you.

3 (Pause)

4 BY MR. TAMBE:

5 Q The document that's up on the screen, Mr. Chu, and in
6 your hands that's marked Exhibit 5928, that's from Goldman
7 Sachs and it is dated September 9, 2008. Do you see that?

8 A Yes.

9 Q Okay. And you'll see that it has information on five-
10 year CDS on GM, Ford and the finance companies, correct?

11 A Yes.

12 Q Okay. And you'll note that it states "autos: five-year
13 CDS trading tighter." Do you see that?

14 A I do.

15 Q And you understand that is not a widening of the
16 spreads, but a narrowing of the spreads, correct?

17 A Yeah. It means the credit spread is going down.

18 Q Yeah. And this is Tuesday, September 9th, the morning
19 after Fannie and Freddy's news was reported, correct?

20 A Yes.

21 Q The next document I'm going to hand up to you, Mr. Chu,
22 is Exhibit 5929.

23 (Pause)

24 Q And this document, Exhibit 5929, you'll see this is
25 another e-mail from Goldman again talking about the same

1 four names that were in the prior exhibit. Do you see that?

2 A Yes, I see the same four names.

3 Q Okay. And the subject line says "auto: five-year CDS
4 outperforming the market stip." Do you see that?

5 A That's what it says.

6 Q And, again, this is post-Fannie and Freddy, correct?

7 A It is post-Fannie and Freddy, yes.

8 Q Okay. The next document I'm going to show you, Mr.
9 Chu, is going to come up on the screen and I'll give you a
10 copy. It's Exhibit 5931. And you'll see Exhibit 5931, Mr.
11 Chu, is an e-mail from Credit Suisse on the subject of auto
12 CDS. Do you see that?

13 A I do.

14 Q And this one is from the morning of September 15th, 10
15 a.m. Do you see that?

16 A Yes.

17 Q And the subject line states, "Auto CDS bid offer type."
18 Do you see that?

19 A I do.

20 Q And this is after, some hours after the announcement of
21 the Lehman filing, correct?

22 A Yes.

23 Q (Indiscernible) I'm going to hand you Exhibit 5932 and
24 it's going to come up on the screen.

25 (Pause)

1 Q And you'll see this is an e-mail, Exhibit 5932. It's
2 from Merrill Lynch just before 4 p.m. on Wednesday,
3 September 17th. Do you see that?

4 A I see it.

5 Q And this one says, "Auto CDS bench mark Spinco
6 massacre." Do you see that?

7 A I do.

8 Q And the spread that you used in the GMAC five-year CDS
9 to value CARB took into account changes not just as of
10 September 15th, but all the way to September 19th, correct?

11 A That's right.

12 (Pause)

13 Q All right. Let's change topics. Let's talk a little
14 bit about the market quotation process.

15 A Okay.

16 Q When QVT went out to the market --

17 MR. TRACEY: Excuse me. I don't mean to
18 interrupt. I just want to lodge an objection for the record
19 on that last document. I don't think there was any
20 foundation laid that Mr. Chu received it or read it. I
21 could have missed it. Sorry. That's my objection.

22 THE COURT: I don't think the question was asked.
23 I think you just asked Mr. Chu what the document reflects.

24 MR. TAMBE: Yeah.

25 BY MR. TAMBE:

1 Q If you would turn to the third page of the document
2 you'll see the metadata.

3 A Uh-huh. Yes, I see it.

4 Q All right. Do you see --

5 A I see the metadata.

6 Q -- that they are -- it's addressed to various people at
7 QVT?

8 A I do. Yes.

9 Q And I think I see your name. I had to go looking for
10 it. It's the third line down sort of in the middle, Arthur
11 Chu.

12 A Yeah. I see it as well.

13 Q The fact of the matter is, sir, you routinely got e-
14 mails like Exhibit 5932, I should say Bloomberg messages
15 like 5932 from various dealers, correct?

16 A Yes. I think I said I got many thousands of such
17 messages each day.

18 THE COURT REPORTER: I can't hear you.

19 THE WITNESS: Yes. I think I said I got many
20 thousands of messages each day.

21 BY MR. TAMBE:

22 Q And you have no reason to believe that any of these
23 exhibits that we've looked at, the ones that talk about the
24 auto CDS were not received by you, correct?

25 A I mean, I think you just showed me data saying I got

1 this Bloomberg and I think I did. As to whether I read it I
2 think I -- it's very likely I did not read it. But --

3 Q And, in fact, even as part of your CARB valuation one
4 of the things you did not do is go back and look at the
5 history of Bloomberg messages the week of September 15th or
6 the week prior to September 15th on what brokers were
7 telling you what was going on with auto CDS, correct?

8 A Well, I looked at broker runs in order to establish the
9 change between those two dates. I may have read some broker
10 runs in between, but I didn't comprehensively read all of
11 the runs with GMAC and GM and so on during that time.

12 Q And as part of your calculation process as you did with
13 PCDS where you went back and found Mr. Camp's e-mails --

14 A Uh-huh.

15 Q -- there were no particular e-mails from any particular
16 brokers that you singled out as informing your CARB
17 valuation, correct?

18 A No, because GMAC was a very widely traded credit.

19 Q All right. Now let's talk about market quotation.

20 A Okay.

21 Q Maybe.

22 A Okay.

23 Q When QVT went out into the market for market quotations
24 on September 15th you were not the person at QVT sending out
25 those (indiscernible) requests, correct?

1 A I was not the one who sent out the market quotation e-
2 mails, no.

3 Q But you were aware they were going out?

4 A Yes, I was.

5 Q Okay. And the topic of market quotations is something
6 that you had been focused on with respect to Lehman at least
7 for a week, correct?

8 A I had asked questions about market quotation, yes, in
9 the prior week. Correct.

10 Q Okay. So let's go in the big binder to Tab 38, which
11 is JX-42. And if you want to take a moment and review that
12 e-mail chain starting from the back to the front. Let me
13 know when you're done. I'll ask you some questions about
14 it.

15 (Pause)

16 A Sorry.

17 Q It's JX-42. It's Tab 38.

18 A What -- oh, Tab 38. Okay. Okay. I see it.

19 Q Okay. And you've had a chance to review it?

20 A Give me one moment, please.

21 (Pause)

22 A Okay. I've looked at it. Yes.

23 Q Okay. And so you -- starting with the back of the e-
24 mail chain which is the third page of the exhibit --

25 A Uh-huh.

1 Q -- that's an e-mail you sent out on the morning of
2 September 8th, 2008, correct?

3 A Yes.

4 Q And I think you told us that you became concerned about
5 a potential Lehman default following the Fannie Freddy
6 conservatorship, correct?

7 A I would say our -- my concern level sharpened or got
8 larger. Yes.

9 Q Right. And not only did you talk to your colleagues as
10 you did at your desk, this time you sent an e-mail asking
11 very specific question about what happens when Lehman
12 defaults, correct?

13 A I did send an e-mail. Yes.

14 Q Okay. And the response which you got back was, I think
15 two e-mails up from Adam Medder, later the same morning of
16 September 8th starting on page 1 over to page 2, he provided
17 you with, at the bottom of page 1 onto page 2, with excerpts
18 from the agreements, correct?

19 A Yes. The loss -- definition of loss and market
20 quotation. I see those.

21 Q So at the very top there's a little discussion which is
22 not a quote from the agreements, but it begins, "Our
23 agreement provides." Do you see that?

24 A I do.

25 Q All right. And you'll see a reference there to

1 something that's within quotes called "structured
2 transaction." Do you see that?

3 A Yes, I do.

4 Q All right. And you understand that none of the PCDS or
5 CARB trade that you valued were identified as structured
6 transaction in the relevant confirmations, correct?

7 A If I may just clarify, do you mean did I check at the
8 time whether that was the case or what do I think right now?

9 Q What do you think right now? You know that right now.

10 A I don't believe that either of those are capital S,
11 capital T structured transactions under the documents.

12 Q All right. So when you entered into the confirmations
13 for the CARB trades and the PCDS trades you did not identify
14 those transactions as capital S, capital T structured
15 transactions, correct?

16 A I don't think so. No.

17 Q Okay. And at the time you don't ask any questions
18 about this; is that right, about that phrase, structured
19 transactions?

20 A I mean, I don't see any reference to the phrase,
21 structured transaction anywhere else in the e-mail.

22 Q So the answer to my question is you didn't ask any
23 questions about that phrase at the time?

24 A I mean, I don't recall having a conversation with Mr.
25 Medder about it and I don't see it in the e-mail, so I think

1 -- I mean, to the best of my recollection I think we didn't
2 talk about it.

3 Q Okay. You'll see there's an extended quote from the
4 market quotation definition. I think it's the entire
5 definition set forth in Mr. Medder's e-mail. Do you see
6 that below?

7 A I see it.

8 Q You did read that at the time, correct?

9 A I actually don't know if I read it at the time.

10 Q Did you read it at any time before the quotation
11 requests went out to the dealers on September 15th?

12 A I don't recall whether I personally read the definition
13 of market quotation or not. I received the definition of
14 market quotation, but I don't recall whether I personally
15 read the definition of market quotation or not.

16 Q And you don't recall any specific discussions with any
17 of your colleagues at QVT about the phrase economic
18 equivalents that appears in the definition of market
19 quotation, do you, sir?

20 A What line are we on?

21 Q It will be six lines down. It will be called, economic
22 equivalent. It's about six lines down towards the right.

23 A No. I don't recall discussing the phrase, economic
24 equivalent. No.

25 Q Not something that factored into any of your market

1 quotation analysis at QVT, correct?

2 A Sorry. Do you mean did anyone at QVT analyze the
3 phrase economic equivalent or did I analyze the phrase
4 economic equivalent?

5 Q Did you analyze the phrase economic equivalent?

6 A I don't recall discussing the phrase economic
7 equivalent, no.

8 Q And you don't recall anyone else at QVT telling you
9 about the phrase economic equivalent in connection with the
10 market quotation process that was run on September 15th,
11 correct?

12 A I don't recall the phrase economic equivalent coming
13 up.

14 Q You respond to Mr. Medder's e-mail on page 1. And the
15 question you have for him is, "Does the quotation agent
16 actually have to trade with us or not?" Do you see that?

17 A I do.

18 Q And then you see below that, "I'm thinking in
19 particular about the PCDS we have on with them (within
20 preferred CDS it's not really traded away from them)." Do
21 you see that?

22 A I do.

23 Q In addition to identifying PCDS in that e-mail to Mr.
24 Medder, did you tell Mr. Medder that PCDS was a particularly
25 illiquid transaction?

1 A I didn't use the phrase illiquid. But I did say it's
2 not really traded away from them.

3 Q Mr. -- but did Mr. Medder ask you is this a liquid
4 trade?

5 A I don't recall whether he asked me if it's a liquid
6 trade or not.

7 Q Now you did have some input, did you not, sir, in
8 telling folks at QVT who were running the market quotation
9 process as to which dealers to go out to to seek quotations
10 from?

11 A Yeah. I think there was discussion on the desk and I
12 would have been present for some of those discussions.

13 Q And in none of those discussions did you tell any of
14 your colleagues, hey, on PCDS, if we ask for PCDS we're not
15 going to get any returns?

16 A I don't think I said if we ask for -- no. I don't
17 think I said that specifically. No.

18 Q And you didn't discuss with your colleagues at QVT when
19 you were preparing the market quotation request, hey,
20 instead of asking for PCDS why don't we get prices from the
21 market for preferred securities as opposed to PCDS?

22 A No, we -- on the market quotation we didn't ask for the
23 prices of preferred securities. That's correct.

24 Q And you did not discuss with them any other
25 economically equivalent transactions like PCDS for which you

1 might get quotes, correct?

2 A Well, I think I just said we -- I don't recall
3 discussing the phrase economic equivalent, so I think the
4 answer would be, no. I didn't talk about that.

5 Q Okay. You are aware that there's a certain population
6 of trades that you ultimately have responsibility for that
7 were never included in the market quotation requests,
8 correct?

9 A Yes.

10 Q Wasn't it your job, Mr. Chu, to make sure that the
11 trades that you were responsible for as a trader were sent
12 out as part of market quotation requests?

13 A I mean, I suppose in the sense that they were
14 ultimately my responsibility, but I wasn't the one collating
15 all of the trades.

16 Q The people collating the trades were sitting to the
17 right of you, to the left of you, right behind you, correct,
18 not --

19 A Well --

20 Q -- buildings away or offices away, correct?

21 A I think Joel was doing most of it. I sat next to Joel
22 at that time.

23 Q And you had no confusion on the morning of September
24 15th as to what your portfolio of trades facing Lehman was,
25 correct?

1 A No. I think we had the ability to get that
2 information.

3 Q Not just the ability to get the information, you had
4 actually collected the information at least as early as the
5 night before, correct?

6 A Yes. I had looked for all the CDS that I thought faced
7 Lehman. Yeah.

8 Q Yeah. And you did that for a very specific purpose,
9 didn't you, sir?

10 A Yes. There was a purpose behind it. Sure.

11 Q Yeah. And the purpose was to identify the Sunday
12 before Lehman filed what your replacement transaction
13 strategy was going to be, correct?

14 A It was to talk -- look at the general landscape of the
15 placements that we had considered doing.

16 Q Well, and you went through and made notations on that
17 list of transactions as to whether the transactions were
18 hedges or not hedges, correct?

19 A We made those notations, yes.

20 Q And you made notations as to whether there was an
21 urgency to re-hedge or replace any of the particular
22 transactions, correct?

23 A Yes. There was an urgency column. That's correct.

24 Q So let's take a look at that analysis that you did the
25 night before the Lehman bankruptcy. So it's Tab 46. It's a

1 native document. It's JX-51 so it will come up on the
2 screen.

3 A Okay. Should I put down the extremely heavy binder or
4 --

5 Q You could.

6 A Okay.

7 Q But you may have to lift it up again.

8 A Okay.

9 Q But not for a few minutes, so we can spend some time on
10 the spreadsheet. And I don't know if you have control of
11 the spreadsheet. It's JX-51.

12 (Pause)

13 Q Okay. So let's first start by identifying what the
14 document is and then we'll see if we need to give you
15 control of the mouse so you can drive around the
16 spreadsheet.

17 A Okay. Okay. So --

18 Q Right now you don't have control of the spreadsheet --

19 A Oh, okay.

20 Q -- because it's being run from the debtor's computer.

21 A Okay.

22 Q I think your mouse and keypad is attached to --

23 A Got it.

24 Q -- your computer.

25 A Thank you.

1 Q So we have up on the screen JX-51. You're familiar
2 with this document, correct?

3 A Yes.

4 Q All right. And the night before the Lehman bankruptcy
5 you were working with this document, correct?

6 A Yes. I think so. Yes.

7 Q Okay. So let's scroll all the way to the top of this
8 tab. And let's just be clear. What tab are we
9 highlighting? Is it on exposure? Okay. So exposures is
10 highlighted and let's go up to the top of the first page.

11 And if you can just gradually scroll down this
12 page and, Mr. Chu, I would just ask you to look at it
13 because I'll ask you some questions after we're done
14 scrolling down this page.

15 (Pause)

16 Q And let's just stop for a second. So we're through the
17 first top of the sheet, the exposure sheet, and so far we
18 haven't seen individual transactions. We haven't see tie-
19 fi's, correct?

20 A No. I think everything in Column A looks to me like an
21 account.

22 Q Okay. And then starting with Line 110 and going down,
23 again, you don't have specific tie-fi's there either,
24 correct?

25 A No.

1 Q Okay. Now you'll start to see in the right-hand
2 columns, Columns H and I you see indications about urgent
3 and replaced. Do you see that?

4 A Yes.

5 Q All right. And those were placed in this spreadsheet
6 on that weekend of September 14th, correct?

7 A I think so. Yes.

8 Q So let's scroll down. And we'll keep scrolling down to
9 different parts of this sheet. Okay. Now let's slow down
10 and let's start -- so there's a different section of the
11 same workbook or the same -- what do you prefer, workbook or
12 spreadsheet?

13 A I think either one will be fine.

14 THE COURT: We've been calling these sheets --

15 MR. TAMBE: Sheets. So we'll --

16 THE COURT: -- right?

17 MR. TAMBE: -- call these -- this is a sheet in a
18 workbook.

19 THE COURT: Correct.

20 BY MR. TAMBE:

21 Q So within the workbook that is Exhibit 51 we're on the
22 exposure sheet and now starting in Line 268 you'll see the
23 specific tie-fi's that are identified. Do you see that?

24 A I do.

25 Q Okay. And you recognize those as the unique

1 transaction identifiers within QVT's systems, correct?

2 A Right.

3 Q Now let's -- if we can freeze the pains at 268-A so we
4 can keep the headings. And let's move over to the right.

5 Within the -- okay. Slow down. All right.

6 So Column J says who, do you see that?

7 A I do.

8 Q All right. And it has names of various traders at QVT,
9 correct?

10 A I --

11 Q And we can scroll down --

12 A -- do. Yeah. Uh-huh.

13 Q I didn't catch your answer.

14 A Sorry. What was the question again?

15 Q The question was those are the names of various traders
16 at QVT, correct?

17 A Yes. That's correct.

18 Q And the next Column K says naked hedge. Do you see
19 that?

20 A IT says naked/hedge.

21 Q Naked/hedge. Right.

22 A Uh-huh.

23 Q And there's a -- you can get a drop down menu to filter
24 that column to see what the different options are, correct?

25 A You can.

1 Q Okay. So we're just going to do that.

2 A Okay.

3 Q All right. So now these are the different options for
4 filling out Column K. Do you see that?

5 A Those are the different responses that people put in.
6 Yeah.

7 Q All right. And so different traders put in different
8 responses for different positions, correct?

9 A I think so. Yeah.

10 Q All right. And you put in responses for the positions
11 that were your responsibility, correct?

12 A I think so. Yes.

13 Q Okay. Let's go back up and -- then the next Column L
14 is -- you've got a letter code for REPL difficulty. Do you
15 see that?

16 A Yes.

17 Q And by that you meant replacement difficulty, correct?

18 A I think that's what it means. Yeah.

19 Q And grade -- a grade of A is easy to replace?

20 A I think it's relatively easier. Yeah. I think so.

21 Q And a grade of -- sorry.

22 A Yes. I think that's what that -- I think that was the
23 concept. Yes.

24 Q And a grade of F is difficult to replace?

25 A Yeah. I think that's the spectrum. Yeah.

1 Q Not impossible to replace, difficult to replace,
2 correct?

3 A I don't think this RPEL difficulty was a defined term
4 in here where we said exactly what F means. I think the
5 idea was to give a general picture of what's easier, what's
6 harder, and something that's F could be extremely difficult.
7 It could be impossible. It's hard to -- I don't think it
8 was defined to that level of precision.

9 Q And, again, each person who was responsible for
10 particular positions selected A, C or F for their positions,
11 correct?

12 A As far as I can recall. I don't remember whether I
13 asked somebody what would you put in this column or whether
14 they put it -- filled it in. But I think it's fair to say
15 that there was some assessment likely by the person under
16 the who column as to whether to put A, C or F.

17 Q That was part of the discussion on Sunday evening was
18 -- we saw an e-mail earlier about --

19 A Uh-huh.

20 Q -- exposure to Lehman, the 116 million versus \$117
21 million number. Do you remember that?

22 A Yes. I think I know the one that you're talking about.

23 Q That's also a Sunday conversation amongst the
24 management at QVT, correct?

25 A Do you want to just show me the exhibit number so we

1 make sure --

2 Q We can do that.

3 A -- we're talking about the same thing.

4 (Pause)

5 A And is this in your binder or is this in the book
6 binder?

7 Q It should be in my binder. Yeah. It's Tab 44, Exhibit
8 5130.

9 A Okay. Yes. Okay. I -- yes. I recall this. Uh-huh.

10 Q All right. So this is, again, a doc -- this reflects
11 discussions and conversations that are going on at QVT on
12 Sunday, correct?

13 A Yeah. That's right.

14 Q And we had looked at the landscape version, page 3, of
15 this document and that had on an aggregate basis the
16 exposure to LBSF as well as the margin against those
17 positions, correct?

18 A Right.

19 Q Okay. All right. So, again, we're talking about the
20 same day. We're now talking about JX-51 where people are
21 going through and marking hedge, not a hedge, replacement
22 difficulty, et cetera. Okay.

23 MR. TRACEY: I'm sorry. Did you say --

24 THE WITNESS: Well, I didn't' --

25 MR. TRACEY: -- we're not talking about it?

1 MR. TAMBE: We are talking --

2 THE WITNESS: Which one.

3 MR. TAMBE: -- about it. We are now talking about
4 it.

5 THE WITNESS: Oh, we are now talking about it.
6 Okay.

7 MR. TAMBE: Thank you.

8 THE COURT: What was the question again, Mr.
9 Tambe?

10 MR. TAMBE: We're going back to the question.

11 THE COURT: Okay.

12 BY MR. TAMBE:

13 Q So when we were discussing JX-51 the question I asked
14 you was there was a Sunday conversation amongst management
15 of QVT that underlies JX-51.

16 A There were conversations about JX-51. Maybe that's --
17 that's how I would say it.

18 Q I mean, JX-51 doesn't just spring to life on Sunday
19 night. There's discussions going on at QVT amongst people
20 about identifying positions and providing some description
21 about whether it was naked or hedged, replacement
22 difficulty, et cetera, correct?

23 A I think there were discussions about the spreadsheet.
24 Yes.

25 Q And following those discussions people went in to the

1 spreadsheet and made notations, right?

2 A Well, that's the part I'm not totally clear on as to
3 whether or not we asked people to fill in the spreadsheet
4 and then we talked about the results once they were all
5 collated or there -- whether we talked generally and then
6 people went off and filled in the sheet. I just don't -- I
7 don't remember the order of operations.

8 Q Okay. But putting aside the order of operations, two
9 things happened. There was a discussion and the spreadsheet
10 was filled out.

11 A Those two things both happened. Yes.

12 Q Okay. So let's go over to the right a little bit more
13 and talk about Column M, and if you can just see the drop
14 down menu for Column M. And you'll see for Column M again
15 there were different responses that could be filled in. Do
16 you see that?

17 A I see there are different responses. Yes.

18 Q And among the responses were hedge, no, replace,
19 replace with a question mark, unwind and yes. Do you see
20 that?

21 A Yes. I see those different things. Yeah.

22 MR. TRACEY: I'm sorry for interrupting.

23 THE COURT: Yeah.

24 MR. TRACEY: But the transcript says you're
25 talking about N as in Nancy and I think you're talking about

1 M as in Mary. So I --

2 THE COURT: We are talking about M as --

3 MR. TRACEY: -- just want to clarify that.

4 THE COURT: -- in Mary. Thank you.

5 MR. TRACEY: Thank you.

6 THE COURT: Yes.

7 BY MR. TAMBE:

8 Q So in Column M as in Mary those are the different
9 responses that could be filled in by the traders, correct?

10 A Well, those are the different responses that the
11 traders did fill in.

12 Q All right. So let's roll over to S as in Sam. And
13 there's a drop down menu for S as in Sam. And that column
14 has the title, urgency for replacement. Do you see that?

15 A I do.

16 Q And the drop down menu has an option of either yes or
17 blank, correct?

18 A I do see that. Yes and blanks.

19 Q All right. Now you reviewed this spreadsheet at the
20 time and -- on Sunday, September 14th, 2008, correct?

21 A We talked about the spreadsheet. Yes.

22 Q Okay. And you made notations in the spreadsheet as did
23 other QVT traders, correct?

24 A Yes. There's input from both me and other QVT traders.
25 Right.

1 Q Okay. So we can sort this list to see which trades
2 have your name associated with them in Column G, correct?

3 A Okay. Yes.

4 Q So we've just selected Arthur in Column J as in Jake.
5 And if we can scroll all the way over to the left and if you
6 can scroll down generally you can take a look at the names.
7 And you'll see a series of preferreds. Do you see that?

8 A Yes. I see those, the dash pref.

9 Q Okay. Scroll down. You see some CDX trades?

10 A Yes. I see those CDX trades. Yeah.

11 Q Let's keep scrolling down. Hold on. Hold on. You see
12 -- scroll -- you see STSUP which is a trade I believe you
13 talked about on direct.

14 A Yes. I see STSUP. Uh-huh.

15 Q KRB and other trades you talked about on direct.

16 A I do see that. Yes.

17 Q So this is a population of your trades as of Sunday,
18 September 14th, 2008, correct?

19 A I think many of them were my trades. Maybe most or all
20 of them were my trades. I mean, it just says Arthur. I
21 don't know that this is the comprehensive list of all Lehman
22 CDS that I had. But, yes, it definitely -- this is the
23 filter that we get and I -- it's definitely what you would
24 get when you filter by the name Arthur and I recognize many
25 of the trades as being trades that I did and ultimately

1 valued.

2 Q Okay. So can we sort this list, so this is just the
3 trades that have Arthur associated with them in Column J
4 just for the preferreds?

5 A Okay.

6 Q We can do that, right?

7 A Yes. Sure.

8 Q Okay. And you do that by dropping down the menu in
9 Column B and picking contains PRES, right?

10 A That should pick up the preferreds, yes.

11 Q So let's do that.

12 THE COURT REPORTER: (Indiscernible).

13 THE WITNESS: That should pick up the preferreds.

14 Yes.

15 BY MR. TAMBE:

16 Q So let's scroll to the top of this list.

17 A Okay.

18 Q And you recognize that as a listing of the preferred
19 CDS transactions that you had, right?

20 A Yes. It looks like it also includes not only
21 Quintessence but -- and QVT. It looks like it also includes
22 the preferred CDS that would have been for a managed account
23 that we had for Deutsche Bank. But, yes, that has the
24 preferred CDS.

25 Q Okay. And so (indiscernible) the preferreds that are

1 at issue in this case would show up on this list?

2 A Yeah. I think they should all be there.

3 Q So now let's scroll to the right.

4 THE COURT: So let me understand this. So when
5 there's three seemingly identical entries in your
6 terminology you have the 1.bang and then the 1b.bang and
7 then the 1q.bang, right, and those would be -- the b would
8 be the Deutsche Bank one?

9 THE WITNESS: Right.

10 THE COURT: Thank you.

11 BY MR. TAMBE:

12 Q So let's scroll over to the right. And you have in
13 Column M indicated replace for every one of those, right?
14 You can scroll down and see if --

15 A Uh-huh. Yes. It says replace for all of them.

16 Q And then let's scroll over to the right some more and
17 scroll up and down that column. All right. And you haven't
18 indicated urgency for replacement for any of these
19 transactions, correct? That column is blank.

20 A That column is blank.

21 Q So now let's sort this same collection or your
22 collection of trades not for preferreds, but for the auto
23 bbb, the CARB trades. We can do that, right?

24 A We can.

25 Q I don't think it will show up by CARB. It will --

1 THE COURT: It won't show up by CARB.

2 MR. TAMBE: -- show up as triple B. You know this
3 spreadsheet, Judge.

4 BY MR. TAMBE:

5 Q If you look for triple B you should find it. If you
6 look at un-filter and then search for triple B.

7 (Pause)

8 Q So doing that pulls up some other triple B trades, but
9 you'll see the four auto bbb trades being highlighted on the
10 page. Do you see that?

11 A I see it. Yes.

12 Q That's Line 666 through 669.

13 A Uh-huh.

14 Q All right. So, again, let's scroll to the right and
15 you've got a replace/unwind indication of yes. And then
16 let's scroll over. But the urgency for replacement is
17 blank, correct?

18 A The column urgency for replacement is blank. Yes.

19 Q Okay. And we talked about this, I believe, on Friday.
20 Other than -- well, these ones didn't even go out for market
21 quotations, right?

22 A They were not included in the market quotations.

23 Q And you did not make any calls to any brokers to try
24 and actually replace these transactions after 9/15/2008,
25 correct?

1 A No. We didn't try to do that.

2 Q And the PCDS trades were part of the population on
3 which market quotations were sought. You got no responses,
4 but you didn't make any other efforts to actually enter into
5 replacement trades for any of those PCDS trades after
6 9/15/2008, correct?

7 A I think I may have talked to some brokers about whether
8 they had anything in PCDS, but I didn't attempt to solicit
9 firm offers or anything like that if that's what you mean.

10 Q So even though you had received absolutely nothing back
11 in response to your market quotation query, you claim you
12 spoke to some brokers, but you didn't ask for firm offers?

13 A Well, no. As I said I don't believe we asked for firm
14 offers.

15 Q All right. So as of Sunday evening you have a list of
16 trades which includes PCDS and CARB. You're having
17 discussions with the other traders at QVT about the Lehman
18 portfolio. Do you have any explanation, sir, as to why the
19 CARB trades did not make it out for the market quotation
20 process?

21 A As I said I'm not the one who did the collating of the
22 different trades. I think that's something that really Joel
23 is the best equipped to answer.

24 Q And all that's transpired since the market quotation
25 requests were made, your calculations were done, this

1 litigation unfolded, you still have no idea as to how those
2 CARB trades did not make it to the market quotation
3 replacement?

4 A I mean, I think it has to do with the particular order
5 of events in which Joel was putting together a ABS b-wick,
6 O-wick or, you know, that's what his -- that was his
7 original language for it around, I don't remember, 11 a.m.
8 or something. And I think those are the ones that got
9 transcribed onto the ultimate list.

10 But, again, that's something that Joel I think is
11 the best one to speak to.

12 Q And given the lack of liquidity in CARB didn't you ask
13 him right on Monday when the quotes and information started
14 coming back from brokers, hey, what did you get on CARB?

15 A I don't remember if I asked him that or not.

16 Q And you didn't ask him that in any of the ensuing days
17 until you put it in your calculation statement, correct?

18 A No. I don't believe I asked him that.

19 Q Let's clear the filters on this. And, again, we're in
20 JX-51. We're going to clear the filters and we can search
21 the tie-fi's for PMI, P as in Peter MI.

22 (Pause)

23 Q And you'll see there's a listing of many rows of PMI
24 transactions. Do you see that?

25 A Yes. There are multiple PMI transactions.

1 Q And those are transactions that you had responsibility
2 for, correct?

3 A Yes. Those are my transactions.

4 Q Okay. So now we're done with JX-51. Let's talk about
5 what you did about replacing the PMI transactions. Okay.
6 Now I believe you've testified you began entering into
7 replacement trades very early in the morning on Monday,
8 September 15th, correct?

9 A Correct.

10 Q So if you could turn in your binder to Tab 48. It's
11 CX-1332. And you can take a moment to get familiar with the
12 document. I'll ask a question or two. Let me know when
13 you're done.

14 A Uh-huh. I see it.

15 Q You know this document, correct?

16 A Yes. I think I recognize it.

17 Q Okay. And that's an e-mail that you sent to a trades
18 e-mail box at QVT; is that right?

19 A I think it's a Bloomberg message technically, but, yes.

20 Q And you are recapping a transaction that you have done
21 at -- as of 5:26 a.m., correct?

22 A Correct.

23 Q And just so we can get familiar with the terminology
24 here, if you can just explain to the Court what is it that
25 you're recapping in the recap comment?

1 A Okay. Sure. So just focusing on the highlighted line
2 in the body it says, "To recap, QVT buys 2 MM PMI 9/20/13 at
3 24.25 plus 500 from UBS new." Okay. So just going one bit
4 at a time, it means that the QVT Funds are buying a total of
5 2 million notional of protection on this credit PMI with a
6 tenure of five years, 9/20/13, and the price is 24.25
7 percent up front, so 24.25 percent of \$2 million. And the
8 plus 500 means the coupon is 500 running as was often the
9 case for more distressed credits.

10 It says from UBS, so from UBS, the broker dealer,
11 and the notation, new, means to distinguish it from an
12 unwind of an existing transaction or suppose I had sold
13 protection 9/20/13 I would be unwinding that transaction by
14 doing the opposite transaction, by buying. It's to make it
15 clear here that this is a new credit default swap that's
16 being created in our system.

17 And just one more small technical detail. When I
18 say QVT buys I mean all of the QVT managed entities. So
19 that would be QVT Fund. That would include Quintessence and
20 I think assuming that Deutsche Bank had the PMI protection
21 as well it would include Deutsche Bank.

22 Q And PMI was a mortgage insurer; is that right?

23 A Correct.

24 Q And it was a distressed mortgage insurer?

25 A Yes. It was pretty distressed. Yes.

1 Q And you were buying more protection of it?

2 A I think I was replacing protection that I had facing
3 Lehman that I had lost. Yeah.

4 Q So this was a -- this was -- you viewed this as a
5 replacement trade for a trade you had on with Lehman?

6 A Yes. That's right.

7 Q You said the replacement that you -- a protection that
8 you had lost. As of 5:26 a.m. on September 15th you had not
9 terminated the transaction --

10 A Yes.

11 Q -- with Lehman, right?

12 A I guess I was being a little colloquial. At 5:26 a.m.
13 we had not terminated. Right. Yes.

14 Q And you had not made any decision with your colleagues
15 at QVT as to whether or not you were going to terminate,
16 correct?

17 A No. I think at that time we had not made any decision
18 to terminate.

19 Q You didn't make any decision to terminate until later
20 in the day, correct?

21 A It was after 5:26. It was in the morning. I don't
22 know exactly what time it was.

23 THE COURT: So I'm confused about the word, new.
24 So it was new in the sense that at that moment it wasn't per
25 se a replacement trade?

1 THE WITNESS: Sorry. It was just new in the sense
2 that it was a new credit default swap facing UBS. And the
3 reason I needed to specify that to my colleagues in
4 operations was they need to be able to set up the
5 transaction and they need to know, okay, am I unwinding an
6 existing CDS or am I creating a new CDS.

7 So all I'm indicating to them is -- like they
8 don't -- for purposes of trades at QVT.com the purpose is to
9 get the trade booked into our system properly. And the sort
10 of why doesn't really matter. You know, it doesn't really
11 matter to the people that are setting up the trade, are you
12 replacing it, are you taking new risk. It doesn't really
13 matter. They just need to set up the trade properly. They
14 just need to set up the trade properly.

15 And so what I'm trying to do is I'm telling them,
16 set up a new CDS facing UBS with these properties.

17 THE COURT: Okay. Thank you.

18 Yeah. She can't hear. Just wait two seconds.
19 The truck noise is making it difficult for the reporters to
20 hear.

21 (Pause)

22 THE COURT: I'm just that good.

23 (Laughter)

24 MR. TAMBE: Awesome. Do you have a button?

25 THE COURT: I do, but you don't want me to push

1 it.

2 (Laughter)

3 BY MR. TAMBE:

4 Q So even though the transactions have not been
5 terminated facing Lehman in your mind at 5:26 a.m. on
6 September 15th you were starting to do the replacement
7 trades, correct?

8 A Yeah. I was trying to -- I would just -- like I would
9 just say that like they weren't necessarily like capital R,
10 capital T replacement trades in the legal sense. I was
11 trying to manage the risk by doing replacements for things I
12 thought in all likelihood were, you know, facing an entity
13 that wasn't going to perform.

14 Q You were putting on this trade in connection with, with
15 a looser sense of the word, your exposure to Lehman,
16 correct?

17 A Yes. I think that's correct.

18 Q Okay. And you continue to do other PMI transactions
19 throughout the morning of the 15th, correct?

20 A I did. Yes.

21 Q So we won't look at every single one, but we looked at
22 several examples.

23 A Okay.

24 Q So if you can turn to Tab 49 which is CX-1340. And
25 that's -- you recognize that as another Bloomberg message

1 that you sent to trades at QVT, correct?

2 A Yes.

3 Q And you're reporting an upside of a transaction with
4 UBS, correct?

5 A Right.

6 Q So the prior document we've been looking at, CX-1332
7 was 2 million. This one refers to 5 million PMI. Do you
8 see it?

9 A Yes. It refers to 5 million PMI.

10 Q And at the same pricing, 24.25 plus 500; is that right?

11 A That's what it says. Yes.

12 Q And it is the same price as the \$2 million trade?

13 A Right. I think what I'm saying here is that forget
14 about the \$2 million trade. I did a bigger trade. I did a
15 \$5 million trade with these terms.

16 Q Okay. And it's a five-year CDS?

17 A It's a five-year CDS. Right, hopefully.

18 Q Let's go to 51, Tab 51 which is CX-1341. Now it's a
19 little bit later the same morning.

20 A I'm sorry. Which --

21 Q And that's another --

22 A Which tab are we in?

23 Q I'm sorry. Tab 51.

24 A 51. Okay.

25 Q And CX-1341. Do you see it?

1 A I see it. Yes.

2 Q And this is another trade recap from you to trades at
3 QVT, correct?

4 A It is.

5 Q And this is recapping a \$2 million notional purchase of
6 PMI, but this time from Barclays, correct?

7 A Yes.

8 Q And, again, it's a five-year CDS?

9 A It is a five-year CDS.

10 Q And the upfront is a little bit lower than the upfront
11 with -- actually, yeah, it's a little bit lower than the
12 upfront with UBS, correct?

13 A It is.

14 Q And you continued to speak with the various brokers to
15 put on these replacement trades through the morning,
16 correct?

17 A Yes. I think I did replacement trades with more than
18 these brokers. I did numerous replacement trades that day.

19 Q And you were doing these electronically or voice? What
20 was the methodology you used to reach these brokers and make
21 these trades?

22 A I think it would have been both. I could have sent a
23 Bloomberg and said I'm looking to buy PMI, say five-year,
24 where would you be on that. I could have sent to Bloomberg
25 saying, where are you on PMI five-year. It could have been

1 some mix of the two things.

2 Q Let's go to Tab 53 which is CX-1328. And that's
3 another trade recap from you to trades at QVT.com, correct?

4 A I'm sorry. We're in Tab 53 right now?

5 Q It's 53 --

6 A Okay.

7 Q -- which is CX-1328.

8 A Yes.

9 Q And this is a trade with JPM?

10 A It is a trade with JPMorgan. Yes.

11 Q Five-million notional?

12 A Yes.

13 Q And a five-year CDS?

14 A It is a five-year CDS and the price is higher.

15 Q Okay.

16 (Pause)

17 Q Let's go to Tab 61, which is JX-0199. And that's a
18 recap and this time it's not a PMI trade. It's another name
19 that you're recapping here, right?

20 A Yes. It's the name MTG which is another mortgage
21 insurer.

22 Q And this is another trade recap that you sent to trades
23 at QVT.

24 A Yes.

25 Q And you're doing a trade, ten million notional,

1 correct?

2 A Ten million. Yes.

3 Q Five-year CDS?

4 A Five-year CDS 9/20/13.

5 Q And this is from CS, correct?

6 A Yes. Credit Suisse.

7 Q And, again, this is a distressed entity so you have
8 some points up front. Do you see that?

9 A Yes. There are points up front in the trade.

10 Q And you did several trades in MTG through the day on
11 the 15th, correct?

12 A I did.

13 Q And you also traded CIT risk through the day on Monday,
14 September 15th, correct?

15 A Yes. I did some trades in CIT.

16 Q And by way of example let's see some of those trade
17 recaps. Let's go to Tab 78 and it's JX-0201. And take a
18 moment -- this is a slightly different format so take a
19 moment to look at it and let me know when you're done.

20 (Pause)

21 A Okay.

22 Q And you recognize this as a trade recap for a trade you
23 did with Morgan Stanley, correct?

24 A It certainly looks like a trade recap. I'm not sure
25 whether I'm the one who did this CIT (indiscernible).

1 MR. TAMBE: (Indiscernible). Let's take a small
2 break.

3 THE COURT: Okay. Let's take a break for about
4 six minutes --

5 MR. TAMBE: Yeah.

6 THE COURT: -- so that Mr. Tambe can reconstitute
7 his --

8 MR. TAMBE: Not my water, but probably my glasses.

9 THE COURT: -- his glasses and, Mr. Chu, you can
10 take a break now as well.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: All right.

13 MR. TAMBE: That's a new one.

14 THE COURT: We'll take --

15 (Recessed at 11:35 a.m.; reconvened at 11:45 a.m.)

16 THE COURT: Has Mr. Tambe been reconstituted?

17 (Laughter)

18 MS. DEL MEDICO: He is, but I'm not sure where.

19 I'll go (indiscernible).

20 THE COURT: All right. Everyone just have a seat.
21 We'll just wait.

22 (Recessed at 11:45 a.m.; reconvened at 11:46 a.m.)

23 MR. TAMBE: I'm well-hydrated.

24 (Laughter)

25 BY MR. TAMBE:

1 Q All right. So before we let some water pass under the
2 bridge, we were talking about tab 78 and with JX-0201. Do
3 you have that back up?

4 A I see it, yes.

5 Q And I believe you're saying it's a trade recap, if you
6 want to show it, it's one that you were involved with; is
7 that right?

8 A Yes. I believe several different people were trying to
9 buy CIT protection that day: myself, Vee Sen (ph), I think
10 Nick Brahm (ph). And so I just don't know for this trade
11 who did it.

12 Q Okay. So we could probably move off of this and go to
13 one that I believe you were involved in. So let's go to tab
14 81, which is CX-1368. And that's a Bloomberg from you to
15 trades at QVT recapping a CIT trade, correct?

16 A Yes.

17 Q And this is one that you do with Citigroup?

18 A Yes.

19 Q And it's five million notional?

20 A Yes.

21 Q And it's a five-year swap, correct?

22 A Correct.

23 Q Annual buying protection on CIT?

24 A Correct.

25 Q And that's not Citi, that's a different entity?

1 A Yes, that was a finance company, CIT.

2 Q And at the time distressed?

3 A Yeah, it was pretty distressed, yes.

4 Q 84, tab 84, which is Exhibit 5897.

5 (Pause)

6 Q Just take a moment to look at this. This is probably
7 another one that you haven't done, but let me know if you
8 recognize the document.

9 A I didn't do this trade it looks like, so I actually
10 don't recognize this document. I think I understand what
11 it's saying, but I don't recognize it.

12 Q All right. So in addition to you there were other
13 traders at QVT doing CIT trades through the day, correct?

14 A That's right.

15 Q And generally you were buying protection on CIT?

16 A In the trades I did I was buying protection. I think
17 overall the effort was to buy protection, I don't believe we
18 sold protection at all that day on CIT.

19 Q And also with respect to PMI and MTG, you were buying
20 protection, not selling protection; is that right?

21 A I think all the trades were buy-protection trades; I
22 think that's right, yeah.

23 Q I want to take a look at I think tab 19, which is JX-
24 0209.

25 (Pause)

1 Q Again, the format is different. Do you see it's an
2 email to you, do you see that?

3 A Yes.

4 Q And this is recapping a CIT transaction, correct?

5 A Yes, it is.

6 Q And it's a trade date of 9/15?

7 A Correct.

8 Q And it's a five-year CDS?

9 A It is a five-year CDS.

10 Q You are buying protection?

11 A Right. It says "CDS buyer QVT."

12 Q And this too was a replacement transaction to replace
13 the risk of your Lehman trades?

14 A Yes, I think so. Yes.

15 Q You'll see it's an email from someone at Citi to you,
16 do you see that, Sayed Hyder (ph)?

17 A Yes.

18 Q And that's someone that you dealt with not just in the
19 context of CIT, correct?

20 A Correct.

21 Q And in fact he is one of the brokers who had sent you
22 information on preferred securities during the week of
23 September 15, correct?

24 A Yes. He was our institutional salesperson in credit at
25 Citigroup, Sahar (ph) Hyder.

1 Q And it's Mr. Hyder at Citigroup who indicated the
2 volumes of trading he was doing in preferred securities,
3 correct?

4 A Are you referring to the Bloombergs that we saw, was it
5 I guess Friday?

6 Q On Friday, yes.

7 A Well, I think probably it's a little bit more
8 technically correct to say he was forwarding a message --
9 it's a little bit more technically correct to say that he
10 was forwarding most likely a message that came from one of
11 his traders who was making the market that had that volume
12 notation on it.

13 Q So he was your coverage at Citi telling you about
14 activity in preferred trading at Citi during the 9/15,
15 correct?

16 A Well, he was the one that sent that Bloomberg related
17 to the preferreds, if that's what you mean.

18 Q Yep, the one with the volumes.

19 A Yes, I think we're talking about the same thing.

20 Q Okay, all right. So you have a population of
21 replacement transactions that you do on 9/15 and you do
22 replacement transactions on subsequent days as well, but
23 what I want to focus on are the ones you did on 9/15. And I
24 want to go from these trading recaps to the calculation
25 statement and the spreadsheet that you were discussing with

1 Mr. Tracey last week, okay?

2 A Okay.

3 Q And I believe that's -- it's a native document, it's
4 Exhibit 2108. So we'll pull that up in native format.

5 And actually it might be helpful if we can pass
6 the controller with the other computer so Mr. Chu can direct
7 us, because I just want you to isolate certain trades.

8 (Pause)

9 THE COURT: It's up.

10 BY MR. TAMBE:

11 Q So up on the screen now is Exhibit 2108 and you spent
12 some time with this document with Mr. Tracey last week. And
13 we're in the Lehman Positions Master tab; do you see that?

14 A Yes, I can see that we're in the Lehman positions
15 master tab.

16 Q Let's just do a couple of things: one, if you could
17 sort this sheet, this tab for the replacement trades that
18 you did, and if you could describe for the Court what
19 sorting you're doing to get to that information?

20 (Pause)

21 A Okay. So let's see, I think there's two ways to get
22 the marking person. So I'm going to use column BC here,
23 which says "Marked by," it's currently set to TF, which is
24 Tracy Fu, and I'm going to uncheck that, I'm going to put
25 AC. Okay. And then there's in column BP, I'm going to

1 click on that and there are four choices: calculation,
2 list, mark IT and replacement. So I'm going to uncheck
3 everything except replacement. And I think that leads us to
4 the universe of thing, these MTG and PMI trades that we were
5 just talking about.

6 Q And if you now wanted to isolate the trades that you
7 replaced on 9/15, can you do that on this sheet?

8 A I have to look, I'm not sure we can do this.

9 Q If you could just go a little bit to the left --

10 A Yeah.

11 Q -- a little more, right there. So in column Y on this
12 tab, Lehman Positions Master, it says 9/16/2008 all the way
13 down this column; do you see that?

14 A I see that, yes.

15 Q So and you can look around this sheet, but I don't
16 believe this sheet identifies the trades that were replaced
17 on 9/15; if it does, you can tell me where it is.

18 A No, I think it does not say which trade was done on
19 which day, no.

20 Q And so if you're looking at Lehman Positions Master and
21 you sort it for replacement trades associated with you, this
22 would tell you the date is 9/16/2008, but we've just seen a
23 lot of trades you did on 9/15/2008, correct?

24 A Hang on a second. So column Y has the Mark IT mark. I
25 believe the way the sheet works is it says, if you use the

1 Mark IT mark, if you put in a date in column Y, what date
2 should I go into Mark IT to look for the data in? However,
3 I think we went through this particular example in some
4 detail in my direct, I'm on row 508 here, this particular
5 trade MPG-1206-20-DS-27 was valued using replacement. So
6 even though the Mark IT mark that comes up it looks like
7 cell X508 is 32.7, that's not what was used; 29.78 was used,
8 which I can confirm over here in cell AL508, that's the same
9 number, and then the market value of the claim is equal to
10 the product of that divided by a hundred times the quantity,
11 which is shown in cell C508.

12 So what I'm saying is I don't believe this date
13 9/16/08 says the date of the trade, I believe that says if
14 you had used Mark IT that would have been the Mark IT date
15 that you would have used.

16 Q Well, it doesn't say that either. It directs you to a
17 formula and you're reading the formula to say that's what
18 that formula means, right?

19 A Well, I didn't actually read the whole formula, just
20 from memory I think that's how the sheet works. And it --

21 Q I get your explanation of how the sheet works, I'm just
22 commenting on your statement that that's what it says.
23 That's not what it says, that's how you believe it works,
24 correct?

25 A That's how I believe it works, yes --

1 Q Okay.

2 A -- that would be more precise.

3 Q Now, when you were valuing the positions that you were
4 valuing and let's just focus on this collection of trades,
5 the MPG PMIs that were replaced, right, you were not
6 entering data into Lehman Positions Master, were you, sir?

7 A Sorry, just -- I didn't understand the question. Can
8 you repeat the question?

9 Q Sure. When you're building a calculation statement and
10 you're valuing the positions you're responsible for valuing,
11 you're entering data into some spreadsheet or workbook; it's
12 not this tab, is it, sir --

13 A Oh, I see --

14 Q -- Lehman Positions Master?

15 A -- what you mean. No, it's not. It's another sheet in
16 this Excel.

17 Q Right. And this sheet, Lehman Positions Master, is
18 pulling information from that other sheet, correct?

19 A Yeah, I think that's right.

20 Q So let's find out what sheet it is that you were
21 actually entering your data into; which one is that?

22 A I think it should come from Lehman Positions-Arthur.
23 So maybe for simplicity, maybe I should do the same
24 filtering on this sheet or --

25 Q That will be helpful. So again, if you can explain to

1 the Court what you're doing, you have -- let's just take a
2 moment on this. Lehman Positions-Arthur, it is your
3 understanding, that's the sheet in which you entered data,
4 you, Arthur Chu?

5 A Yes, I think that's right. So I think the way it works
6 is that every person who was working on this I think got a
7 copy of the same sheet that had all the positions in it and
8 then every person went and filled in his or her -- his
9 appropriate part of that sheet. And then -- you know, I
10 wasn't the one who copied these in, but I think what
11 happened is that, you know, there was something called
12 Lehman Positions-Arthur, there's something called Lehman
13 Positions probably Joel, Sen and so on, and I think the
14 master sheet kind of looks up in the appropriate place and
15 sticks it into the master sheet. So I think these are the
16 -- this is the one that I would have been populating.

17 Q Why don't you go ahead and filter this to identify the
18 trades that you valued and the ones that you valued using
19 replacement transactions?

20 A Okay. So let's see, so --

21 Q And just describe for the Court where you're going and
22 what you're doing.

23 A Okay. So right now I'm in the sheet that's named
24 Lehman Positions-Arthur and there's a column AQ, and I'm
25 going to filter that on my initials AC. Okay.

1 (Pause)

2 A Just a second.

3 (Pause)

4 A Okay. So I think we should get the same universe of
5 trades here. I'm going to call them AE and there's
6 something called reason, and I'm going to try to look for
7 all the cases in which it says "replaced."

8 Okay. So what I have now is I have this universe
9 of trades from this account MI and let me do just one more
10 check. So I'm going to hop back to Lehman Positions Master
11 for a second and I'm in row 508. And I can see the first
12 ty-fi is MTG 1206_DS27, and I can see that in cell B508.
13 And if I move over to the mark in column AL, so cell AL508,
14 I see 29.79, and I also see the quantity in cell C508 of
15 \$11.59 million. So then I go to Lehman Positions-Arthur and
16 I see the same information here.

17 Q All right. So now let's scroll to the left on this
18 sheet, which is Lehman Positions-Arthur.

19 A Okay.

20 Q Now, there are columns and information on Lehman
21 Positions-Arthur that don't appear on Lehman Positions
22 Master, correct?

23 A Sorry, there are -- is there information in Lehman
24 Positions-Arthur that doesn't appear on Lehman Positions
25 Master?

1 Q That's right.

2 A Which column are you referring to?

3 Q So you've gone all the way to the left, now let's just
4 go column-by-column to the right.

5 A Okay.

6 Q To the right.

7 A To the right, okay.

8 (Pause)

9 A Okay.

10 (Pause)

11 A Okay.

12 Q So column BB.

13 A Okay.

14 Q That says Level on 9/21/2008?

15 A Okay.

16 Q That's not a column that appears on Lehman Positions
17 Master, correct?

18 A I don't know; I'll have to look.

19 (Pause)

20 Q You just went past BB. Blank?

21 A So in Lehman Positions Master, yes, I can confirm that
22 the column BB is -- well, at least under this filtering is
23 blank.

24 Q So let's go back to Lehman Positions-Arthur.

25 A Okay.

1 Q So for this collection of trades that you just filtered
2 for on Lehman Positions-Arthur, every one of those positions
3 has a value on 9/21/2008; do you see that?

4 A Well, there's something that says Level on 9/21/08 and
5 those numbers are all filled in.

6 Q And if you go two columns over to BD, you'll see BD is
7 doing a calculation. It's comparing the number in BB, which
8 is this column called Level on 9/21/2008 --

9 A Okay.

10 Q -- and comparing it to column AN, as in Nancy; do you
11 see that?

12 A I do.

13 Q And if you go over to column AN -- you've got to go
14 over one more to the left --

15 A Okay.

16 Q -- it's got a title that says "Claim," do you see that?

17 A Uh, I do.

18 Q And Claim is a column that does appear in Lehman
19 Positions Master? You can check for yourself. I think it's
20 column AN.

21 A Uh-huh.

22 (Pause)

23 Q Right?

24 A Okay.

25 Q And that's what goes up to 242, do you see that?

1 A Uh --

2 Q To the top-left column.

3 A -- so AN2 is the sum of AN4 to AN799, yeah, I see that
4 that -- I see that formula.

5 Q And if you go to the right in Lehman Positions Master,
6 not only is there no entry for column BB -- hold on, let's
7 go to BB -- so there is no entry for 9/21/08, the
8 differential. The BB column that we saw in Lehman
9 Positions-Arthur that shows you the difference between the
10 claim amount and the BB amount, that's also missing, right?

11 A Well, there -- it doesn't look like there is a
12 calculation like that in this sheet, if that's what you
13 mean.

14 Q So let's go back to Lehman Positions-Arthur.

15 A Okay.

16 Q If you can confirm for me in row -- go to the right --
17 I'm focusing your attention on column BB and BD. So BB and
18 BD --

19 A Uh-huh.

20 Q -- in the Lehman Positions-Arthur sheet.

21 A Okay.

22 Q And we're now -- you're now on in column BD, which is
23 the DISF column?

24 A Yes.

25 Q And we just discussed, what that's discussing is level

1 on 9/21 minus the level of the claim, right?

2 A It's -- right, so it's just subtracting two columns.

3 So BD510 is equal to BB510, minus AN510.

4 Q The numbers that appear in column BB are numbers that
5 you put in on or about 9/21/2008, correct?

6 A I don't know where the numbers in column BB come from.

7 Q No idea?

8 A I mean, it's just like -- it just says
9 829587.867111671, I don't know where that's from.

10 Q Well, that's hard-coded, correct?

11 A Yeah. It's not a formula, it's just a number, yep.

12 Q And you do know because I think you were in court when
13 Mr. Waldman was discussing how when you went from the live
14 spreadsheet to ones for production there were certain
15 formulas that were converted into hard-coded amounts,
16 correct?

17 A Yes, I do recall that discussion.

18 Q So at least when you were working in Lehman Positions
19 Master it had a column that said Level on 9/21/2008 and it
20 had a column that said DISF that compared 9/21 values,
21 whatever those values are on that column, to the claim
22 amount, correct?

23 A Yes, there's something that subtracts AN -- was it AN
24 from BB or BB from -- AN from BB.

25 Q And none of that information, those two columns BB or

1 BD, appears on Lehman Positions Master?

2 A I don't -- no, I don't think this makes it over to
3 Lehman Positions Master.

4 Q So we come back to this in the BCDS and COB (ph)
5 context, but at least for now let's stay with PMI and MTG,
6 the replacement trades.

7 A Okay.

8 Q You didn't replace all of these trades, correct?

9 A No, I didn't replace all of them.

10 Q So you replaced a collection of PMI trades on 9/15 and
11 some collection of MTG trades on 9/15, correct?

12 A That's right.

13 Q The ones you didn't replace on 9/15, you did not use
14 your replacement prices on 9/15 to value those trades,
15 correct?

16 A So are you asking if I had a ty-fi that I hadn't
17 actually replaced did I use a replacement price?

18 Q Yeah.

19 A I don't think so, no. I think the replacement prices
20 correspond to the ty-fis that were replaced.

21 Q And for the ty-fis that were not replaced you used
22 values from 9/16/2008, correct?

23 A Yes, I think that's right. I think for all these I
24 used 9/16/08, that's right.

25 Q So you had transacted in some volume on Monday,

1 September 15th and received prices for actual transactions
2 in PMI and MTG, correct?

3 A Well, I'm sorry, are you just asking did I do a number
4 of replacement trades on 9/15 with these names?

5 Q Yes.

6 A Yes, I did do a number of replacement trades in these
7 names, yes.

8 Q And in doing those trades, you did them at specific
9 prices that were quoted to you and agreed by you to enter
10 into those trades, correct?

11 A Well, yes, I had to agree to the trades to do them.

12 Q But you didn't use that price discovery mechanism to
13 value the other trades as of 9/15/2008, correct?

14 A Well, if you're asking did I use -- I used the prices
15 to replace the trades that they were replacing, I didn't use
16 the prices to value the trades that they weren't replacing.

17 Q And instead you used, I believe, Markit Partners data
18 for those trades, but data from 9/16/2008, correct?

19 A Correct, Mark IT from 9/16.

20 THE COURT: I'm sorry?

21 THE WITNESS: Correct, Mark IT from 9/16.

22 BY MR. TAMBE:

23 Q There was Mark IT data available on 9/15 for those
24 names, correct?

25 A There was Mark IT for 9/15.

1 Q If we can just go to the left in the spreadsheet? A
2 little too fast, a little whiplash for me, slowly. Keep
3 going over to the right.

4 A Okay.

5 Q So let me hold you there for a second on column Y.

6 A Uh-huh.

7 Q Now, column Y is a collection of all the trades, the
8 ones you replaced and the ones you didn't replace, correct?

9 A Uh, I actually don't think that's right, because under
10 here it says "reason replaced."

11 Q And again, so if you go back to Y.

12 A Okay.

13 Q So now every one of these is one that you've replaced,
14 but here too we see 9/16/2008; do you see that?

15 A Yes, I see the date 9/16/2008.

16 Q Did you anywhere collect Mark IT Partners data from
17 9/15/2008 for the trades that you had actually replaced on
18 9/15/2008?

19 A I'm sorry, do you mean did I go back and compare the
20 prices at which I had done replacement trades to the Mark IT
21 data on that date?

22 Q Uh-huh.

23 A No, I don't think I did that.

24 Q And is that information -- you didn't do that analysis
25 and you didn't capture that 9/15/08 data; is that right?

1 A I didn't -- I don't believe I did that analysis. As to
2 whether the data was captured, I think the way it worked is
3 the Mark IT stuff was in our database and you could call up
4 that information. So in that sense it was captured; it was
5 not captured by me, it was captured by whatever automated
6 process would capture it.

7 Q You would just send your spreadsheet to go look up that
8 data; is that right?

9 A Yeah, I think there's a spreadsheet function that can
10 find that data for you, yes.

11 Q So now if we can go to the right on this spreadsheet,
12 Lehman Positions Offer. And again a little bit slowly, so I
13 can --

14 A Okay.

15 Q -- stay with you. A couple more right, one more -- a
16 couple more. Keep going through right.

17 (Pause)

18 Q Let's go all the way to the right to see what other
19 information appears.

20 A Oh, okay.

21 Q But just slowly so we can all keep track of what else
22 is here. Keep going.

23 A I mean, do you want me to read out the column headings
24 or something so they're on the record or --

25 Q When we get to a part that I want you to discuss. For

1 now I just want you to show what else is on this
2 spreadsheet.

3 A Okay.

4 Q And if you get through column BD, that's the end of the
5 data that you -- you didn't do --

6 A I mean, it looks like it, yes.

7 (Pause)

8 Q Let's go back to the left. And I want you to compare
9 AL and AD. And if you can hide the columns in the middle,
10 that way we can compare side-by-side AL and AD.

11 A Okay.

12 Q And if you can now describe for the Court what you're
13 doing, so we can have those two columns side by side.

14 A Okay.

15 (Pause)

16 A Okay. So what I've done is I've grouped the
17 intermediate columns in the sheet Lehman Positions-Arthur
18 between AD and AL, and so I've -- and collapsed the middle
19 columns so AD and AL appear next to one another.

20 Q So in this case what it shows is for the ones that you
21 actually replaced and you listed on here you have overridden
22 whatever Mark IT information there was to make sure the
23 price you used was the price at which you transacted,
24 correct?

25 A Sorry, what was your question?

1 Q By putting AL next to AD we can see that the price you
2 used is the same as your override price and your override is
3 because you actually transacted, you used your actual
4 transaction price to value these trades, correct?

5 A Right. So column AD and AL have the same values it
6 looks like going all the way down the sheet and it looks
7 like those values are different than what you would find in
8 column X, which is the result of the Mark IT calculation.

9 Q I think we covered this, but I just want to be sure.
10 Did you ever compare your prices at which you actually
11 transacted on 9/15 to what your formula would have yielded?
12 That is take 9/15 Markit Partners values, add your ten
13 percent bid-mid, would that be a higher price or a lower
14 price than where you actually transacted on 9/15?

15 A No, I don't think I did that calculation, although I
16 can see in many cases the -- no, I don't think I did that
17 calculation.

18 Q So now let's -- so we just compare that, right? So
19 let's look at the -- your override price, AD, let's compare
20 that to column X. So again let's put those numbers --

21 A Okay.

22 Q -- side-by-side.

23 THE COURT: Can I ask a clarifying question? Is
24 the Mark IT data in column X from September 15th or
25 September 16th?

1 THE WITNESS: I think it's from September 16th,
2 Your Honor.

3 THE COURT: 16.

4 THE WITNESS: I mean, the underlying formula isn't
5 exposed anymore, but I think that the -- from what I recall
6 about the way this sheet works in column Y, if you put in
7 something there it will call that date rather than 9/15/08.

8 THE COURT: Thank you.

9 BY MR. TAMBE:

10 Q And the information that appears in column X for this
11 collection of trades, that's the Mark IT mark you get when
12 you use 9/16 data and apply your ten percent bid-mid
13 adjustment, correct?

14 A Yes, I think that's what it is, yeah.

15 Q You can confirm for yourself if that's what it is; it's
16 your spreadsheet.

17 A Well, as I said, I think that's what it's doing, I just
18 can't see the actual formula on Mark IT mark, but I think
19 that's the way it works.

20 Q And you will see by comparing X to AD --

21 A Uh-huh.

22 Q -- right? So AD is prices you actually obtained versus
23 the formula you used for all the other replacement trades.

24 A Okay.

25 Q The prices at which you transacted are far lower than

1 the prices generated by your formula?

2 MR. TRACEY: Objection.

3 THE COURT: Yes.

4 MR. TRACEY: Can I ask, did you mean to say all
5 the other replacement trades? If you meant it, it's fine, I
6 just want to know.

7 BY MR. TAMBE:

8 Q No, I meant it for all the other trades that were not
9 replaced where you just used the formula --

10 MR. TRACEY: Okay.

11 BY MR. TAMBE:

12 Q -- did you look to see how your formula fared compared
13 to actual prices you obtained?

14 A I'm a little bit confused. So what we're looking at
15 here is we're looking at the Mark IT mark, we think, as of
16 9/16/2008, and we're comparing that to the price at which we
17 actually did a trade generally on 9/15/08.

18 Q Right, that's right.

19 A Okay. And so what's the question you're asking? For
20 the ones where -- and I think we're still on the case in
21 which I actually did a replacement trade --

22 Q Yeah.

23 A -- right?

24 Q Right.

25 A So I think your question a second ago had to do with

1 cases in which I didn't do a replacement trade, is that what
2 you're asking?

3 Q That's right. And in the cases where you didn't do a
4 replacement trade you would have used 9/16 values and a ten-
5 percent bid-mid, correct?

6 A Okay, yes.

7 Q That's right, right?

8 A Yes.

9 Q Now, all I asked you is did you do a comparison to see
10 when you actually transacted on 9/15 how did that compare to
11 the prices you were getting from your bundle?

12 A Are you saying did I compare my 9/15 prices to the 9/16
13 prices generated by Mark IT, is that what you're asking?

14 Q Well, not just generated by Mark IT, but you don't just
15 take the Mark IT prices, you also add a ten-percent mid-bid
16 to that?

17 THE COURT: I think the confusion is coming in
18 because you're referring to trades that Mr. Chu actually
19 replaced, but then you're segueing to a question involving a
20 comparison between Mark IT data from 9/16 plus a ten-percent
21 adjustment and if he compared that with the levels at which
22 he actually replaced --

23 MR. TAMBE: That's right.

24 THE COURT: -- right?

25 MR. TAMBE: Yeah.

1 THE COURT: So it's a little bit apples and
2 oranges.

3 MR. TAMBE: It might be, it might not be. It's
4 two different concepts.

5 THE COURT: Right. I didn't want to make it more
6 complicated, but --

7 MR. TAMBE: But I think you've captured what I'm
8 asking him to compare.

9 THE COURT: Do it this way. Why don't you -- so
10 we have on the one hand the Mark IT data from 9/16 and on
11 the other hand you have two groups: replacement trades
12 actually executed and replacement trades not executed --

13 MR. TAMBE: Right.

14 THE COURT: -- right? So I think, Mr. Tambe,
15 you're asking for what comparison was done --

16 MR. TAMBE: That's right, if any.

17 THE COURT: -- if any.

18 MR. TAMBE: That's it.

19 THE WITNESS: Okay. So breaking it out in that
20 fashion -- by the way, if I can just clarify one point?
21 When I say Mark IT mark here, from my recollection of the
22 way this works it already incorporates the ten-percent bid-
23 mid spread in this, so there's no need -- in other words,
24 this 32.7 number would be including the effect of the ten-
25 percent bid-mid, it's not just using the Mark IT mark in a

1 raw form. So when I say Mark IT mark I mean adjusting for
2 the bid-mid already.

3 But coming back to the question, the question is
4 say you have a transaction that you did on 9/15/08, did I
5 compare the price of that transaction at which the
6 transaction was actually executed to the price that would
7 have been calculated from Mark IT data on 9/16/08 using a
8 ten-percent bid-mid, the answer to that question is no, I
9 don't think I did. And then if you have an alternative --
10 so the alternative is cases where I didn't do a replacement
11 trade and is the question did I compare those to the 9/16
12 Mark IT price? Because they would just be the same in that
13 case, right?

14 MR. TAMBE: Correct.

15 THE WITNESS: Yeah. So did I answer your
16 question?

17 BY MR. TAMBE:

18 Q Almost. Where you didn't do a replacement trade, you
19 used your formula, correct?

20 A When we didn't do a replacement trade we used the
21 formula, which means we took the 9/16 Mark IT price and we
22 used a ten-percent bid-mid on that, yeah.

23 Q And I think you've answered the question, what you
24 didn't do is a comparison for where you did replace to
25 compare the result that would have been yielded had you used

1 your formula as opposed to the replacement prices, correct?

2 A So -- okay, so for example, in the case where I did do
3 replacement, are you saying, okay, did I say -- okay, so if
4 we look at these two -- first two ty-fis for instance. So
5 I'm in row 510 right now, you're saying, okay, did you
6 notice that Mark IT, the formula would have yielded in cell
7 X510 32.7, but you actually replaced at 29.79 or whatever,
8 when you did whatever (indiscernible) you did and calculated
9 it, it would have rolled back to 29.79, and it would have
10 rolled back to 29.7 or in the alternative on the next one
11 down in row 520 MTG-120920-DS37, the Mark IT mark would have
12 been 29.8, but you actually replaced at 33.79, no, I didn't
13 do that comparison.

14 Q And you could go all the way down and compare how you
15 did generally in actually replacing versus performing,
16 correct?

17 A Sure. I mean, you could compare those numbers if you
18 wanted to.

19 Q Okay. While we're in 2108, let's also look at another
20 data set that's used to drive Lehman Positions Master. So
21 let's go back to Lehman Positions Master.

22 A Okay.

23 Q And let's clear this for -- let's clear all the filters
24 and then we can go to the trades we want to look at.

25 A Okay.

1 (Pause)

2 A Okay. So do you want me to first leave it for just me
3 or --

4 Q I want to make sure I'm picking up all of your trades.
5 So whatever you need to do to clear the filters to make sure
6 that we're looking just at the population of the trades you
7 valued in the Lehman Positions Master.

8 A Okay. So I think if I go to column BP, which right now
9 is filtered only on replacement and I un-filter that, so I
10 check all of the possibilities there and I'm going to leave
11 in place the filter in column BC. Let's just make sure
12 that's correct. So that's the marked by, that's under AC,
13 so I'm going to leave that in place. I don't think there
14 are any other filters that I added, but -- yeah, I think
15 that should take us to the right universe.

16 Q Okay. And now if you were going to looking for the
17 PCDS transactions you could filter this sheet for the PCDS
18 that you valued, correct?

19 A Yes, we can do that. Do you --

20 Q Okay, so let's do that.

21 A -- want me to do that?

22 Q Yes.

23 A Okay. So the way I'm going to do that is in column B
24 under ty-fi I'm going to put a text filter in which says
25 "contains," and I'm going to put the letters p-r-e-f.

1 Right, and that gives -- in the lower left it says 60 of 796
2 records found, so I think that's --

3 Q That's the population?

4 A -- the right population, yep.

5 Q And the first two lines are WFC, do you see that?

6 A Yes.

7 Q Rows 104 and 105?

8 A Right, rows 104 and 105 say WFC, yes, Wells Fargo.

9 Q That's Wells Fargo, okay. And so if you just scroll
10 over to the right to see what price you used to value those
11 two trades.

12 (Pause)

13 Q Does Lehman Positions Master tell you that?

14 A Yes. In column AL there's a column called Mark and
15 cells AL104 and cells AL105 have the number 19.57 in them,
16 so that gives you the -- yeah, so that gives you the column
17 AO, which is equal to 19.57 percent of the notional.

18 Q Again, you did not populate the mark, you did not enter
19 19.57 on this sheet, you entered it in the sheet that you
20 were working on Lehman Positions-Arthur, correct?

21 A Yeah, I think that's right.

22 Q So let's go to Lehman Positions-Arthur and again filter
23 it -- release these filters and filter it for the preferred
24 transactions that you gathered.

25 A Okay.

1 (Pause)

2 A Oh, you know what, I need to un-hide certain -- that's
3 why I can't find the filter, I need to un-hide these things
4 I hid before. Okay.

5 (Pause)

6 A Okay. So I'm going to go to the column AE and before I
7 had put -- I had filtered on the word "replaced" and I'm
8 going to un-filter that now. And so you want me to find the
9 preferreds again, right?

10 Q That's right.

11 A Okay, sure. So I'm going to do the same thing. I'm in
12 Lehman Positions-Arthur, I'm in the column B, and I'm going
13 to go to the -- put a text filter on, the same text filter,
14 it says contains p-r-e-f, and it says 60 records again are
15 found.

16 Q So that's the number your valued, right?

17 A Right.

18 Q So let's again scroll across to the right on this
19 sheet. You have a hard-coded price that appears there in
20 column AD --

21 A Uh-huh.

22 Q -- of 19.57, correct?

23 A Yes, I see that.

24 Q And that's not a number that's calculated in this sheet
25 either, it's just a hard-coded number, right?

1 A Well, there's sort of another sheet, the PCDS sheet
2 where the calculation is done. I don't know whether in the,
3 you know, original version of this there was some sort of
4 lookup into that sheet or not, but this 19.57 doesn't have a
5 formula attached to it.

6 Q Right, that's not the only point, but that calculation,
7 the determination of what number goes there is done
8 somewhere else?

9 A Yeah, I think that's right.

10 Q So let's keep going down this line, line 104.

11 A Okay.

12 Q Across.

13 A Oh, across, okay.

14 (Pause)

15 Q Now, you'll see in column BB for some of the preferreds
16 you have values; do you see that?

17 A Yes.

18 Q And it's the column 9/21/2008; do you see that?

19 A I do.

20 Q And again there's a differential in BD, which is
21 comparing the values in column BB to the claim column,
22 correct?

23 A So you're saying if you look under the column BD, say
24 cell BD104, cell BD104 is equal to BB104 minus AN104, yes,
25 that's what the formula says.

1 Q So now let's find out where this 19.57, the price you
2 used for this line 104 comes from, what tab does that come
3 from?

4 A There's this tab called PCDS sheet, there ought to be
5 anyhow -- oh, excuse me, PCDS data. So I'm scrolling to the
6 right and I'm finding a thing called PCDS data, which I
7 think we had looked at last week.

8 Q Okay.

9 A Okay.

10 Q And so if you see you have WFC noted in rows 68, 69,
11 70, and 71, do you see that?

12 A Yes. Those cells A68 to A71 contain these WFC CDSSs.

13 Q And if you scroll across in columns E through I --

14 A Yes.

15 Q -- there are various values that appear, right?

16 A There are.

17 Q And those are values, starting from the left in column
18 E, from 915 through 919, correct?

19 A Okay, so let's just confirm that.

20 Q And if you want to freeze the panes, that might make it
21 easier.

22 A Okay.

23 (Pause)

24 Q So let's go down to WFC.

25 A I'm sorry, I think I froze in a funny spot in here.

1 (Pause)

2 A Okay.

3 Q So let's go back down to WFC.

4 A Okay. Yep.

5 Q And so now we have the column headings September 15,
6 16, 17, 18, and 19; do you see that?

7 A Uh-huh.

8 Q And this is data that you collected and populated this
9 spreadsheet, correct?

10 A Yes.

11 Q And you have a variety of prices for different WFC
12 lines; do you see that?

13 A I do.

14 Q And it looks like it ranges from as high as 99 to maybe
15 a low of 80.1; do you see that?

16 A Yes.

17 Q And so row 68, you say in column J you got a Citigroup
18 closing run on 9/17; do you see that?

19 A Yes, I see the notation Citigroup closing run, 9/17.

20 Q So for that particular Wells Fargo CUSIP you got a run
21 from Citigroup on every single day from 9/15 through 9/19,
22 correct?

23 A Yes. I think there is a Citigroup run, the 9/17 run it
24 looks like is a closing run, I'm not sure if the other runs
25 were intra-day runs or if they were closing runs.

1 Q But in any event what you're reflecting in row 68 is
2 that for that particular Wells Fargo CUSIP you had data that
3 runs from Citigroup every single day 9/15 through 9/19,
4 correct?

5 A That's right.

6 Q And then if you skip line 69 where you have a single
7 observation from Bloomberg on one date of 80.1, right?

8 A Uh-huh.

9 Q Right?

10 A Yes, I see that.

11 Q You have two more rows of Citigroup runs for WFC on
12 each day from September 15 through September 19, right?

13 A Yes, I see those.

14 Q Now, if you go to the right, let's see which of those
15 prices you ended up using.

16 A Well, I used the reference obligation, as you can see
17 in cell D69, of 80.1.

18 Q So even though the only data you had was the Bloomberg
19 data for one day and you had multiple data points from
20 Citigroup on a day-by-day basis you used 80.1?

21 A I can confirm I used 80.1, yes.

22 Q And in fact the very next row in the very next column,
23 CDS claim, comma, clean, it says 19.9; do you see that?

24 A I see that, yes.

25 Q So that was the basis for the calculation you did for

1 the WFC PCDS, right?

2 A It was.

3 Q And the reason you used that line is because you said
4 that was reference obligation, that line?

5 A Uh, that would be one reason. I mean, the coupons of
6 these other bonds are really quite different than the coupon
7 of the reference obligation, they're substantially higher.

8 Q So if I go to reference obligation in the back of the
9 tab that has a lower coupon, it gave you enough comfort that
10 you would use the Bloomberg single observation as opposed to
11 those multiple data points from Citigroup; is that right?

12 A Well, I did use the Bloomberg one, yes.

13 Q And you concluded that was a reasonable thing for you
14 to do given all the data you had on WFC?

15 A That's what I did, yes.

16 Q All right. You didn't do that consistently, did you,
17 sir?

18 A I'm sorry, what do you mean you didn't do that
19 consistently?

20 Q Applied that set of rules that you just described to
21 the Court as to how you used 80.1 for WFC?

22 A As I said, I think I tried to start with the reference
23 obligation. If the reference obligation data looked
24 reasonable and the coupon on the reference obligation was
25 reasonable, I think I wound up using the reference

1 obligation.

2 Q Let's see if you did that for BNP.

3 A Uh-huh.

4 Q Let's go up to the top.

5 A Right, yep.

6 Q So now you've got line 17 to 22 for BNP?

7 A Uh-huh.

8 Q You have one line, line 20, where you say yes, it is a
9 reference obligation; do you see that?

10 A I see that.

11 Q You've got one observation from Bloomberg on the 19th
12 of September, right?

13 A Okay.

14 Q That's not the one you used, right? You used the lower
15 price you could find for that collection of six different
16 lines, some with daily observations, some with other
17 observations, correct?

18 A Sorry, so you're asking did I use the 86.2731? No, I
19 did not.

20 Q Even though that was the reference obligation, right?

21 A Yes, but it's a little bit strange that this would be
22 trading at 86.27, you don't have the exact same date data,
23 but you have bonds with higher coupons earlier in the week
24 trading at, you know, substantially similar prices. So that
25 was a little bit strange. The Wells Fargo bond is much more

1 consistent, I would say.

2 Q You didn't do any of that --

3 A It's a 7.7 coupon.

4 THE COURT: I'm sorry?

5 THE WITNESS: The Wells Fargo is a 7.7 coupon.

6 And the 9.75 has the highest, then 5.95, which is the lowest
7 coupon, has the lowest price, and the 7.7 has the middle
8 price in between. So at least that is more consistent.

9 BY MR. TAMBE:

10 Q That answer you just gave, Mr. Chu, you didn't do that
11 analysis back in the time, did you? You're just making it
12 up as you look at this sheet today.

13 A No. I mean, I -- having traded fixed income for a long
14 time, I think I had an awareness that higher coupon bonds
15 are going to generally trade at higher prices than lower
16 coupon bonds at the same maturity.

17 Q One other thing I don't see on this sheet of BCDS data
18 is any observations from Mr. Camps' various emails to you
19 during the week of September 15th, 2008.

20 A I'm not sure if that's right or not. I think possibly
21 some of these ACAFP prices do actually coincide with Mr.
22 Camps' runs.

23 Q And you just didn't happen to put any source in the J
24 column for where you got that data from?

25 A No, there's no notation that says Mr. Camps in those

1 columns.

2 Q So just looking at this sheet we have no way of knowing
3 whether you actually used any of Mr. Camps' data or not,
4 right?

5 A Well, you would have to go back and compare to Mr.
6 Camps' Bloomberg.

7 Q And you weren't trying to list on this sheet every
8 single observation you saw for all relevant preferred equity
9 for each of these issuers, were you, sir?

10 A No, I wasn't trying to do a comprehensive -- how would
11 you say, survey -- survey of all the preferreds that were
12 out there, no.

13 (Pause)

14 Q And you didn't make any notations at the time of the
15 selection process you had used, for example to distinguish
16 the BNP selection from the WFC selection, right?

17 A No, there's no additional notes that I'm aware of other
18 than what's shown in these columns.

19 Q Let's go back to the Camps emails from Friday. So
20 we're switching topic --

21 A Okay.

22 Q -- we're leaving this spreadsheet. I think most of
23 these are in your white binder, in the smaller binder.

24 A Okay.

25 Q If they're not, I'll hand up a copy to you. Okay? So

1 I'll be handing up more exhibits to you than you'll find in
2 that binder; there will be a few of them in the binder, but
3 I'll be handing up more of them to you.

4 A Okay.

5 Q Okay? So last Friday we talk about emails to you from
6 Mr. Camps, Bloomberg messages from Mr. Camps to you, which
7 were generally the week of September 15th, 2008; do you
8 remember that?

9 A Yes.

10 Q So I'm going to hand up to you now CX-1223.

11 (Pause)

12 Q And you'll see this is a Bloomberg message from Peter
13 Camps, do you see that?

14 A Yes, I do.

15 Q And you got messages from Mr. Camps in your email box
16 with the Bloomberg address at QVT, correct?

17 A Yes, I did.

18 Q No reason to think this one is not in your email box,
19 correct?

20 A I mean, I don't know that I specifically recognize this
21 one, but if it appeared in my Bloomburghs when you searched
22 them it wouldn't surprise me.

23 Q So this is Thursday, September 4th, 2008, do you see
24 that?

25 A Yes.

1 Q So before Penny and Freddie and before Lehman, do you
2 see that?

3 A I do see it, yes.

4 Q And you see Mr. Camps begin with the line "Carnage in
5 financials today," do you see that?

6 A I do.

7 Q And there was -- carnage is a word he's used in some of
8 the Bloomberg messages we saw on Friday, correct?

9 A Yes, I think he did say carnage, yes.

10 Q And you'll see there's a whole series of preferreds
11 that he lists on this sheet, do you see that?

12 A Yes, I see lots of preferreds here.

13 Q This is not something you took into account when you
14 were putting together your calculation statements? And by
15 this I mean comparing Mr. Camps' pre-September 15 missives
16 with his post-September 15th missives?

17 A By the word missives, do you mean prices?

18 Q Well, it's not just the prices, it's the commentary as
19 well.

20 A Oh. Well, no, I don't think I copied them all and, you
21 know, read them all in sequence, if that's what you mean;
22 no, I don't think I did that.

23 Q But you told the Judge that one of the things you did
24 do was look for messages that would support your valuation
25 and your new methodology for valuing PCDS, correct?

1 A I don't think I said it in so many words. If you want
2 to read back to me what I said, I'd be happy to listen to
3 it.

4 Q I'll be happy to do that, but you did specifically
5 identify certain of Mr. Camps' messages for the Judge to
6 consider, correct?

7 A I confirmed that I have seen certain of Mr. Camps'
8 messages, yes.

9 Q And I believe you said the way you found them is you
10 went looking through your Bloomberg messages to look for
11 some color on PCDS? This was back at the time, right?

12 A Well, I think what I said is that I was looking through
13 various Bloomberg messages from various people, including
14 Peter Camps, and Peter Camps was someone who gave color
15 about the market.

16 Q So coming back to the question, one of the things you
17 didn't do as part of your process as you were doing your
18 calculation statement is compare Mr. Camps' color from the
19 week of 9/15 to his color from previous periods, correct?

20 A Well, I guess if what you mean is did I read possibly
21 some pre-9/15 Bloomborgs, sure, it's possible I read pre-
22 9/15 Bloomborgs. Did I engage in a study of whether his
23 commentary was different before or after, no, I didn't
24 engage in a study as to whether or not his commentary was
25 very different before or after.

1 Q And you didn't engage in any kind of study to see when
2 Mr. Camps used words like carnage what his prices that he
3 was showing on the same sheets showed?

4 A No, I did not use -- I did not do that, no.

5 Q You didn't look to see whether the words he's using,
6 the descriptive words he's using match up with how the
7 prices are changing from day to day in his various Bloomberg
8 messages, correct?

9 A No. As I said, I don't think for instance I compared
10 this Bloomberg that has the word carnage with the other
11 Bloomberg that also has the word carnage and lined up the
12 prices one by one, no, I don't think I did that.

13 Q The next document I want to show you is CX-1232.

14 (Pause)

15 Q You'll see CX-1232 is another Bloomberg message from
16 Peter Camps; do you see that?

17 A Yes.

18 Q And this one is dated Monday, September 8th, 2008, do
19 you see that?

20 A I see it.

21 Q This is post-Fannie/Freddie news?

22 A Yes. So Fannie and Freddie would have been announced I
23 think that Sunday, yep.

24 Q And again you have a series of preferred securities and
25 prices listed by Mr. Camps, do you see that?

1 A I do.

2 Q You didn't do any analysis to see post-Fannie and
3 Freddie announcement how Mr. Camps' pricing on preferred
4 securities had changed, did you?

5 A You mean did I compare his prices -- no, I didn't
6 compare a time series of his prices across the Fannie Mae
7 event, no.

8 Q And you never did that?

9 A As I said, I think some of the ACAFP prices in that
10 PCDS sheet I think actually are from Mr. Camps' run, but no,
11 I didn't do the exercise that you just described.

12 Q And even when you picked up some of the ACAFP prices
13 from Mr. Camps' run, you didn't look to see how Mr. Camps
14 had been pricing those ACAFPs for the days before and after
15 the Lehman bankruptcy, correct?

16 A I think I recorded them on two days in that case, but I
17 didn't create the whole time series of his broker runs, no.

18 Q All right.

19 A I saw -- I think I recorded them on two days, from
20 looking at that sheet, but I didn't create the whole time
21 series, no.

22 Q And the two days you recorded was during the week of
23 September 15th, but you didn't compare that to what you had
24 for example on 9/12/2008, correct?

25 A I don't recall doing that. I mean, it's possible I

1 looked at the 9/12 run, but I don't remember lining them up
2 one by one in that way.

3 Q I've handed you what's been marked as CX-1239, 1239,
4 and you recognize that as another Bloomberg message from Mr.
5 Camps on the topic of preferred equity?

6 A Yes, it's another Bloomberg from Peter Camps, that's
7 right.

8 Q And this is dated September 9th, 2008, correct?

9 A It is dated September 9th, 2008.

10 (Pause)

11 Q The next document I want to ask you to look at is
12 CX-1252.

13 (Pause)

14 UNIDENTIFIED SPEAKER: Jay, what exhibit?

15 MR. TAMBE: CX-1252.

16 BY MR. TAMBE:

17 Q And you recognize this as another Peter Camps Bloomberg
18 message, correct?

19 A Yes, it's another Bloomberg message from Peter Camps.

20 Q Okay. And no reason to believe you didn't get this
21 one, right?

22 A As I said, if you found this in my Bloomberg inbox, it
23 wouldn't surprise me.

24 Q And again on the topic of preferred pricing, correct?

25 A Uh-huh.

1 Q Yes?

2 A Yes.

3 (Pause)

4 Q The next document I've handed you is CX-1261. And you
5 recognize this as another Bloomberg message from Mr. Camps
6 to you -- I'm sorry, let me withdraw it -- another message
7 from Mr. Peter Camps dated September 12th, 2008, correct?

8 A Yes.

9 Q And no reason to believe you didn't receive this one,
10 correct?

11 A No, it wouldn't surprise me. By the way, do you mind
12 if I just take a lozenge for a second?

13 Q Sure.

14 A My throat is getting a little bit dry. Thanks.

15 Q Do you have water up there?

16 A I do.

17 Q I shouldn't be the one offering water, but --

18 THE COURT: Here's a lozenge.

19 THE WITNESS: Thank you, Your Honor.

20 (Pause)

21 THE COURT: So, Mr. Tambe, let's take stock of
22 where we are.

23 MR. TAMBE: So I just want to finish this chain,
24 two more --

25 THE COURT: Okay.

1 MR. TAMBE: -- documents in this vein. That may
2 be a fine time to stop.

3 THE COURT: Okay.

4 MR. TAMBE: And then we'll come back and go at it
5 again.

6 THE COURT: Okay.

7 MR. TAMBE: And when we come back I could probably
8 give you an idea of how much longer.

9 THE COURT: Sounds good.

10 THE WITNESS: Okay.

11 BY MR. TAMBE:

12 Q The document that I handed you is Exhibit CX-1261,
13 correct?

14 A Uh, yes.

15 Q So I want to make sure we're talking about the same
16 document.

17 A Okay.

18 Q And you recognize that as another Bloomberg message
19 from Mr. Camps, this one dated September 12th, correct?

20 A I do.

21 Q And again on the topic of preferred equity, correct?

22 A Yeah, preferred stocks, yeah.

23 Q And no reason to believe you didn't receive this,
24 correct?

25 A No, certainly I could have gotten this.

1 Q And you'll see this one is dated middle of the day
2 Friday, September 12th, 2008, right?

3 A That is when it's dated.

4 Q So you had some data from Mr. Camps for values for some
5 preferred securities as of Friday, September 12th and you
6 had information from Mr. Camps on September 15th on some or
7 all of the same names, correct?

8 A Yeah, I think I had runs both days, if that's what you
9 mean.

10 Q And that's not a comparison you did between his
11 September 12th values and September 15th values, correct?

12 A No, I don't think I created that time series.

13 Q I've handed you, sir, a document marked CX-1388, and do
14 you recognize that as a Bloomberg message from Mr. Camps
15 dated September 15th, 2008?

16 A Yes, I do.

17 Q And that is post-Lehman filing, correct?

18 A That is post-Lehman filing.

19 Q And no reason to believe you didn't receive this
20 document, correct?

21 A No, I know I got this document, yes.

22 Q And you know you got this document because this is one
23 of the documents you believe you looked at in connection
24 with your calculation statement, correct?

25 A Yes.

1 (Pause)

2 A Thank you.

3 Q I've handed you a document marked CX-1447 and you
4 recognize that as another email from Mr. Camps, this one
5 dated Tuesday, September 16th, 2008, correct?

6 A Yes, from Peter Camps, dated September 16th, 2008.

7 Q And no reason to believe you didn't get this one,
8 correct?

9 A No, I think I got this as well.

10 Q Okay.

11 (Pause)

12 Q I've handed you a document marked CX-1484 and that's
13 another Bloomberg message from Mr. Camps; do you see that?

14 A I do.

15 Q And this one is dated September 17th, 2008?

16 A It is dated September 17th, 2008.

17 Q And no reason to believe you didn't get this document?

18 A No, I think I got this document, yes.

19 (Pause)

20 Q And I've handed you a document marked CX-1510 and you
21 recognize that as another Bloomberg message from Mr. Camps,
22 correct?

23 A I do.

24 Q Again on the topic of preferred equity, correct?

25 A For some preferreds, yes, two ones.

1 Q And dated September 18th, 2008, correct?

2 A Dated September 18th, 2008, correct.

3 Q And no reason to believe you didn't get this document,
4 correct?

5 A It wouldn't surprise me if I got this document, no.

6 Q And so you could with the collection of documents we've
7 reviewed today, as well as the documents we reviewed last
8 week, put together a time series of the names that appear in
9 every one of Mr. Camps' Bloomberg messages, correct?

10 A You could do that, yes.

11 Q And that would show you the changes, if any, in his
12 pricing from day to day from as early as September 4th all
13 the way through September 18th, correct?

14 A Okay.

15 Q You could do that, right?

16 A You could do that, yes.

17 Q And that's not something you did?

18 A No, I did not do that.

19 Q And you could compare Mr. Camps' prices to prices you
20 were seeing on Bloomberg and from Citigroup and from other
21 sources, correct?

22 A I'm sorry, are you asking did I compare Mr. Camps'
23 prices with what?

24 Q With prices you were seeing on Bloomberg, Citigroup and
25 from other sources?

1 A I don't recall whether I did that or not, I don't -- I
2 think the Citigroup runs are referencing different sets of
3 securities, I think those are all U.S. securities. So I
4 don't recall doing that, no.

5 MR. TAMBE: Okay, we can -- that's fine.

6 THE COURT: Okay. All right, we'll come back at 2
7 o'clock. Same rules apply, Mr. Chu. Thank you.

8 THE WITNESS: Thank you, Your Honor.

9 (Recessed at 1:00 p.m.; reconvened at 2:33 p.m.)

10 BY MR. TAMBE:

11 Q Good afternoon.

12 A Good afternoon, Mr. Tambe.

13 Q Let's talk a little bit about the valuation methodology
14 you used for PCDS. So before the lunch break, we had spent
15 some time in the calculation spreadsheet and, in particular,
16 in the PCDS data cap. Do you recall that?

17 A I do.

18 Q And just to sort of orient us in terms of where we are
19 in terms of the methodology, once you had identified a
20 particular bond whose price you were going to use, to value
21 the PCDS, you took 100 minus that bond price; is that
22 correct?

23 A Yeah, minus. Not the first price. Correct, yes.

24 Q I'm sorry. Minus that preferred price. That
25 methodology that that is the way to value PCDS is a

1 methodology you adopted post-bankruptcy, correct?

2 A It's something we adopted for purposes of calculating
3 the claim, yes.

4 Q It's not a methodology that you had ever used at any
5 point prior to September 15th, 2008, correct?

6 A No, we had not used that prior to September 15th, 2008.

7 Q And it's a methodology that was devised by you
8 personally?

9 A Yes, I think I'm -- yes, I'm the one who came up with
10 it, yes.

11 Q And it's something you discussed with your partners at
12 QVT, correct?

13 A I think I ran it by them, but I think I'm the one who
14 came up with it.

15 Q And it's not a methodology that you consulted with
16 third parties on for purposes of calculating your claim
17 against Lehman, correct?

18 A No, I did not consult with third parties in doing the
19 calculation.

20 Q And there was no particular literature that you
21 referenced or consulted when you were preparing your
22 calculation statement, correct?

23 A I don't recall referencing any particular pieces of
24 literature, no.

25 Q And once you had adopted that methodology, that it

1 would be par minus the preferred price, you did not go back
2 in time and back test that approach with any prior marks or
3 valuations you may have had on your PCDS positions, correct?

4 A No, I didn't. I didn't back test it in the way you
5 describe, no.

6 Q Okay. Now, it is possible to apply your formula, par
7 minus preferred price, at the inception of the trade. You
8 can do the calculation, correct?

9 A Sure, you can figure out what the preferred price was
10 at that time, and you can take 100 minus that, sure.

11 Q Not a calculation you've ever done, correct?

12 A It's not a calculation I did at the time. I think I
13 may have done it in subsequent years.

14 Q In the course of this litigation?

15 A Yes.

16 Q When you did put on the PCDS transactions back in 2007
17 and 2008, on day 1, you valued those transactions at or
18 close to 0, correct?

19 A Right, there was no money that changed hands upfront,
20 and we would have marked them, you know, wherever -- at that
21 month end, we got marks from Lehman, which was probably
22 close to the original spread that we traded it.

23 Q So close or equal to zero?

24 A I mean, it could have been exactly equal to it. I
25 mean, it could have

1 UNIDENTIFIED SPEAKER: (Inaudible).

2 BY MR. TAMBE:

3 A I'm sorry. It could have been exactly equal, but it
4 would have -- I would expect it would be in the zone, yeah.

5 Q Even though the bonds -- oh, sorry. Even though the
6 preferred equity positions that were referenced in your
7 various PCDS transactions -- some of them were trading at
8 the time in the 90s, in the 80s, and even lower, correct?

9 A Well, if your point is they were trading up prices
10 different than par, yes, that's correct.

11 Q So notwithstanding the fact that those preferred equity
12 securities were trading below par at inception, you still
13 marked and valued your PCDS positions at or close to zero,
14 correct?

15 A Well, as I said, we would have marked them at that
16 month end at whatever level we got from Lehman, which, you
17 know, probably the first month afterwards was not greatly
18 different from the initiation price, which was zero, yeah.

19 Q Just the last piece. The issuance price was zero,
20 correct?

21 A Correct, there was no -- there was no cash. Let me
22 just think for a second. Yes, I think these were all par
23 swaps. There was no cash that changed hands at the
24 beginning.

25 Q Right, and there were no points upfront on any of the

1 trades that you did for Lehman in PCDS, correct?

2 A Yeah, that's what I mean. There was no -- there was no
3 cash exchanged upfront.

4 Q And then when you got --

5 THE COURT REPORTER: (Indiscernible.)

6 BY MR. TAMBE:

7 Q Okay, sorry.

8 A There was no cash exchanged upfront.

9 Q And then once the positions were on, the value of those
10 positions could and did change over time, correct?

11 A The value did change over time.

12 Q I think you mentioned in one of your prior answers you
13 would have received some updated values from Lehman and you
14 would have used those values to mark your books month end;
15 is that accurate?

16 A Yes.

17 Q And once you adopted your new valuation methodology,
18 you haven't gone back to any of those month end marks and
19 recalculated those, correct?

20 A Sorry. What do you mean, recalculated those? Do you
21 mean amend those marks in some way or no?

22 Q Yes.

23 A No, we did not -- we did not amend the marks.

24 Q So even, for example, the month of August 2008, 1 month
25 before Fannie and Freddie and Lehman, you had marks on your

1 books for the PCDS positions, correct?

2 A We did have marks on our books for the PCDS positions.

3 Q And those marks at month end would have rolled up into
4 your net asset value calculations, correct?

5 A Yes, they would have.

6 Q Okay. And even though you adopted a new valuation
7 methodology for purposes of this claim, you haven't applied
8 that valuation methodology to go back and revalue or restate
9 your August 2008 nav. (ph), correct?

10 A No, we did not restate our August 2008 av. on that
11 basis.

12 Q And for the month of September 2008, other than using
13 that methodology to calculate the claim against Lehman,
14 that's not a methodology you use to calculate your nav. for
15 the month of September 2008, is it, sir?

16 A Well, I don't think there were any PCDS in our
17 portfolio, other than the ones facing Lehman. So the answer
18 is no, we didn't use that methodology for the nav.

19 Q Okay. So during the opening on behalf of QVT, there
20 were some slides that were presented about QVT's rationale
21 for this methodology. Do you recall that?

22 A Yes, I think so.

23 Q So just for your reference and to make sure we're all
24 on the same page, we have a QVT opening that may be Slides
25 77 through 80.

1 (Pause)

2 Q So what's on the screen is Slide 77.

3 A Yes, I see it.

4 Q And so, just to make clear, we're working off the
5 document that was handed out during the opening, and that's
6 why the slide numbers we have match up with the hard copy
7 document handed out at the opening.

8 MR. TAMBE: Do you have a new document, Your
9 Honor?

10 THE CLERK: I gave it to her.

11 THE COURT: I think I have the misnumbered one.

12 THE CLERK: 78?

13 THE COURT: Is that this?

14 THE CLERK: That's 77.

15 THE COURT: 77.

16 THE CLERK: (Indiscernible.)

17 THE COURT: Yes, I'm with you. Thank you.

18 BY MR. TAMBE:

19 Q I believe 77 states, "QVT's valuation: PCDS." And in
20 red, it has the formula, correct?

21 A It says par minus value of preferred, yes.

22 Q And then the subsequent slides, Slide 78, 79, and 80
23 walk through an example, correct?

24 A Yes, there's an example, uh-huh.

25 Q And this is not an example that was put together by you

1 at the time. This is an example created in this litigation,
2 correct?

3 A No, I didn't create this example at the time. That's
4 right.

5 Q Nor did you create any example like this at the time,
6 correct?

7 A No, I mean, I don't remember drawing any diagram like
8 this, no.

9 Q But you have reviewed this progression of slides,
10 correct?

11 A Yes, I've seen it, yes.

12 Q Well, you've done more than just see it, right? You
13 are familiar with the concepts that are being to the Court
14 in these slides.

15 A Yes, I'm familiar with it, yes.

16 Q And it's your understanding that these slides
17 accurately describe your rationale, QVT's rationale, for
18 valuing the PCDS as it has done?

19 A Yes, I think it communicates the essential idea.
20 That's right, yes.

21 Q And you aren't aware of any errors in the way these
22 slides depict PCDS valuation per QVT, correct?

23 A I mean, I think it looks basically correct to me, yeah.

24 Q So on Slide 80, right, that's the slide that sets forth
25 the rationale for why there would be a \$4 million upfront

1 premium, correct?

2 A Yes, I think that's that, yeah.

3 Q Right?

4 A Yes, I think that's what it --

5 Q And your rationale in valuing the PCDS is that that \$4
6 million is what a replacement dealer like Morgan Stanley
7 would have charged QVT on day 1, had QVT and Morgan Stanley
8 entered into a replacement PCDS transaction alone these
9 lines, correct?

10 A Right. So the idea is that the price at which a dealer
11 would offer one something is the price at which they can
12 hedge it. Like if I said -- if you said to me I want to
13 sell you Microsoft stock at 60 when it's trading at 55, the
14 reason I won't pay you 60 is because I can only go sell it
15 at 55 on the market.

16 Similarly, when Morgan Stanley goes to -- when
17 they sell protection to QVT, say, they're getting long
18 deferral risk. They're taking the risk of deferral. And
19 so, to lay that off, they've got to -- because there's no
20 PCDS market after Lehman, at least as far as we could see,
21 they would have to sell short the preferreds in order to
22 hedge that risk, in our view.

23 (Pause)

24 MR. TAMBE: My screen's not working. I just want
25 to follow that last answer.

1 THE COURT: Okay.

2 BY MR. TAMBE:

3 Q I just want to make it clear that I haven't answered my
4 question. Your rationale in valuing the PCDS is that \$4
5 million is what a replacement dealer like Morgan Stanley
6 would have charged QVT on day 1, had QVT and Morgan Stanley
7 entered into a replacement PCDS along these lines, correct?

8 A I'm saying in order to hedge the upfront deferral risk,
9 I think that -- one thing that's not depicted here is it
10 doesn't tell you what the coupon of the CDS is. If the
11 coupon is 2,000 basis points versus the coupon being 2 basis
12 points, there is going to be some kind of adjustment for
13 that. But, yes, in order to hedge this, assuming that the
14 preferred stock coupon and the CDS payments kind of line up,
15 that this is the right price, yes.

16 THE COURT: When you say in order to hedge the
17 upfront deferral risk, would it be more accurate to say in
18 order upfront to hedge the deferral risk?

19 THE WITNESS: That would be more accurate, yes,
20 because you would -- yes.

21 THE COURT: Your modifier's in the wrong place.

22 THE WITNESS: Yes, I think it would be better to
23 say in order to be hedged --

24 THE COURT: In other words, --

25 THE WITNESS: In order to be hedged immediately

1 after the transaction upfront, you would --

2 THE COURT: Upfront?

3 THE WITNESS: -- have to --

4 THE COURT: As opposed to the deferral risk is
5 upfront?

6 THE WITNESS: Correct.

7 THE COURT: Okay.

8 THE WITNESS: Yes.

9 THE COURT: Thank you.

10 BY MR. TAMBE:

11 Q So whatever that deferral risk is, the transaction you
12 are depicting on -- QVT is depicting on Slide 80 -- that
13 deferral risk is being fully paid for on day 1 with this
14 upfront payment from QVT to Morgan Stanley, correct?

15 A Yes, that's the way this example is set up.

16 Q The bottom -- if you look at the arrow going from
17 Morgan Stanley to QVT, --

18 A Uh-huh.

19 Q -- you are showing there the payment of the protection
20 amount from Morgan Stanley to QVT, correct?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q And then on the right-hand side, you're showing Morgan
25 Stanley pulling out and buying stock for 4 million; is that

1 correct?

2 A Let's see. So --

3 MR. TRACEY: Is it possible to give the witness
4 the --

5 THE COURT: Yes.

6 MR. TRACEY: -- opening?

7 THE COURT: Yes.

8 MR. TRACEY: Because they bill, and I'm not sure
9 this is the right place to start. And I don't think it's
10 easy to figure out where you are from this.

11 THE COURT: Can we give the witness --

12 MR. TAMBE: Sure, Your Honor.

13 THE COURT: -- the stack?

14 MR. TAMBE: I don't have a physical --

15 THE COURT: We have some extras. Hold on.

16 UNIDENTIFIED SPEAKER: We only got two, so --

17 THE COURT: Okay. Hold on.

18 (Pause)

19 THE WITNESS: Thank you very much.

20 THE CLERK: This is the one with the corrected
21 pages. So you just have to talk about (ph). These are two
22 of the corrected pages.

23 MR. TAMBE: Well, it's the corrected deck, so I
24 think Mr. Tracey's going to have to tell the witness which
25 pages he should be going to.

1 THE COURT: Remember, we were just off by a couple
2 of pages.

3 MR. TAMBE: Three. I think it's 80 through 83.

4 THE COURT: Right.

5 MR. TAMBE: It's 80 through 84.

6 MR. TRACEY: May I approach?

7 THE WITNESS: Okay. Thanks.

8 THE COURT: Thanks.

9 (Pause)

10 THE WITNESS: Okay.

11 BY MR. TAMBE:

12 Q The question that was pending was and then on the
13 right-hand side, you're showing Morgan Stanley going out and
14 buying stock (indiscernible); is that correct?

15 A Well, that's what's in the slide, yeah.

16 Q Right. But if a credit event occurs, Morgan Stanley
17 doesn't have to go and get that stock in the market,
18 correct?

19 A What do you mean? Like --

20 Q Well, QVT doesn't get paid anything, unless it delivers
21 to Morgan Stanley a preferred security.

22 A Yeah.

23 Q So it's really QVT that's going into the market and
24 getting a preferred security, correct?

25 A Yes, but QVT has to deliver the security to Morgan

1 Stanley.

2 Q Right. And, in fact, Morgan Stanley has no obligation
3 to make a payment, even if there's been a deferral, unless
4 QVT can source and provide Morgan Stanley with a preferred
5 security, correct?

6 A Well, I think that you can also settle a CDS suits
7 through a so-called auction process, which is optional.
8 But, yes, there's a mechanic that most likely has to be gone
9 through where QVT has to deliver the stock to Morgan
10 Stanley, yeah.

11 Q And in your confirmations on PCDS, you, in fact, had
12 specified physical settlement for settlement upon a credit
13 event, correct?

14 A Yep, there is a physical settlement.

15 Q Let me finish the question.

16 A Sorry.

17 Q For settlement upon a credit event, correct?

18 A Yeah.

19 Q Now, also built into this diagram are several
20 assumptions that you made at the time, correct?

21 A I think it might be easier if you tell me what
22 assumption you think is made in the diagram and I can tell
23 you whether or not we made it.

24 Q Let's take them in turn, all right? One assumption you
25 make is that sellers of PCDS protection would necessarily

1 hedge the transaction by selling short preferred equity,
2 right?

3 A Well, we thought that was one way that you could do it.
4 We weren't aware of any other way you could do it, because
5 we didn't -- I mean, kind of before all of this happened,
6 when there was a PCDS market, the way we had seen Lehman do
7 it was when they could find a seller on the other side, they
8 could then offer us the protection. They could kind of pass
9 it through. So from everything we could see, those sellers
10 were nowhere to be found. And so, we said the dealer can't
11 find those to hedge it. As far as we could see, you'd have
12 to sell the preferred stock.

13 Q Right. So if I understand your last answer, you had
14 not seen Lehman use preferred equity as a way of hedging the
15 protection it was selling you on PCDS, correct?

16 A Well, we didn't know what they were doing on the other
17 side to hedge their book. All we knew is that the language
18 that they were using when they were describing to us how
19 they were giving us the protection suggested to us that they
20 were finding sellers of PCDS on the other side.

21 Q Okay. And the language didn't suggest to you that they
22 were going out and selling preferred equity short as a way
23 of hedging their protection, the protection to you?

24 A No, it didn't. I don't think that's what it said.

25 Q So you're also assuming, for purposes of this example,

1 that the initial price of the preferred equity when the
2 trade is put on was 60, right? That's in one of the earlier
3 slides, right?

4 A Uh-huh, yes, that's right. That's on page 81. Well,
5 my things are misnumbered, but it would be a few slides
6 before that, yeah.

7 Q And you're also assuming that, upon a credit event
8 occurring, a deferral credit event occurring, that the
9 preferred would trade at 40, correct?

10 A That's the assumption here.

11 Q Now, you do know that at the date of bankruptcy,
12 9/15/08, and through that week, the prices you looked at --
13 there were some prices that were in the 50's and 60's, and
14 there were some that were far higher than 50 or 60, correct?

15 A Sure, yeah.

16 Q So some equity was trading at a substantial discount of
17 par, and some was trading at just a minor discount of par,
18 correct?

19 A Yes, some prices were higher. Some prices were lower.

20 Q And your methodology treats all of them exactly the
21 same?

22 A Yes, we treat -- we treat them all as par minus
23 preferred, yep.

24 Q And since you developed this methodology internally at
25 QVT and didn't speak to third parties about it, there was no

1 dealer between 9/15/2008 and 10/15/2008 who said to you this
2 is the way you should now value PCDS in the new world,
3 correct?

4 A No, no dealer told us to do it this way.

5 Q I believe you said, when you testified on direct, that
6 your view was whatever rule of thumb or market convention
7 existed prior to the Lehman bankruptcy your view was that no
8 longer was true, correct?

9 A I think what I was referring to specifically is in the
10 past, people in the market, dealers, for instance, would
11 look at PCDS as, say, a multiple of the senior spread. The
12 PCDS should be, say, two times the senior spread. And they
13 may have actually even hedged it that way, where they sold
14 PCDS, perhaps they would have been willing to hedge it with
15 senior debt. It was my view that following Fannie Mae, it
16 would be unlikely that a dealer would be wanting -- would
17 actually hedge their book in that way.

18 Q Right. So your view following Fannie and Freddie was
19 that whatever that relationship existed before Fannie and
20 Freddie no longer existed?

21 A Well, my view was that dealers -- that that
22 relationship, in the case of Fannie Mae, if you'd had -- was
23 basically one where if you were a dealer and you thought
24 about doing that trade on other credits, you were running
25 risk on basically both -- you were running the risk of

1 losing on both sides of the trade. So say you took, I don't
2 know, Wells Fargo, okay. And you offered QVT \$10 million of
3 PCDS. So you're -- so you're long the deferral risk. And
4 you hedge it with 25 million of senior risk. The problem is
5 that what Fannie Mae just showed was that it's possible that
6 the senior debt, basically, becomes riskless. It's
7 guaranteed by the government. And then the preferred debt
8 goes to about 10 cents on the dollar. So you would not only
9 lose on the protection that you were short, the protection
10 you had sold. You'd also lose on your hedge. So in -- I
11 think that's what Fannie Mae showed to me, and that's why I
12 thought people would be very hesitant to actually hedge a
13 large PCDS sale in that -- in that case. Because rather
14 than being risk decreasing, which is what a hedge is
15 supposed to do, it could actually be risk increased.

16 Q Right, but Fannie and Freddie were GSE's, correct?

17 A They were GSE's, yes.

18 Q Wells Fargo was not a GSE, correct?

19 A No, Wells Fargo was not a GSE. That's correct.

20 Q Right. And your identification of deferral risk -- you
21 got all the information you wanted about deferral risk
22 simply by looking at the price of a particular preferred
23 equity, correct?

24 A Yes, that's how we -- that's what we used, uh-huh.

25 Q So banks, including the financial names that you were

1 trading PCDS on, have preferred equity. They have
2 subordinated debt. They have senior debt, correct?

3 A Yes.

4 Q All three of those types of instruments, preferred
5 equity, subordinated debt, senior debt, carry with them the
6 risk of default, correct?

7 A Yes.

8 Q And so, now let's talk about the cash instruments. All
9 three of those, if you're a holder of that cash instrument
10 and there's a bankruptcy, that's a default risk, correct?

11 A Yes, bankruptcy is a default risk.

12 Q And that default risk applies equally to all three of
13 those, correct?

14 A I mean, in CDS terms, yes, it would be a credit event
15 under all three of them, yes.

16 Q Preferred equity has its additional risk, correct? It
17 has the deferral risk.

18 A That's right.

19 Q You could have simply compared the prices of preferred
20 equity to senior and sub to isolate what had happened to
21 deferral risk, correct?

22 A I don't know if it would isolate it. I guess it would
23 give you some idea as to the relative deferral risk of the
24 relative change due to the two things, yep.

25 Q And that's an analysis you did not do?

1 A No, we did not -- we didn't analyze -- we did not
2 isolate, as you said, the deferral risk from preferreds as
3 compared to subordinate and senior bonds.

4 Q And because your view within QVT was the relationship
5 is broken and we've got to come up with a new way of valuing
6 PCDS, correct?

7 A Well, as I said, our view was that whatever spread
8 multiple existed at the time, we didn't think that a dealer
9 would actually want to offer it on that basis. Because, as
10 I said before, you could be doubling your risk rather than
11 hedging your risk, which is the -- kind of defeats the
12 purpose of trying to hedge.

13 Q And that was your view held internally at QVT. Because
14 you just told us you came up with this methodology without
15 speaking to third parties about it, correct?

16 A Well, no, we didn't -- that's right we didn't speak to
17 third parties about it.

18 Q Now, we discussed and you have seen that on October 1
19 and October 2, Merrill Lynch went into the market to sell
20 PCDS protection, correct?

21 A Yes, I think I know the Bloomberg you're talking about,
22 Bloomborgs.

23 Q And they did not do that on a points upfront basis,
24 correct?

25 A No, they had a very high coupon that they were

1 offering, but there were no points upfront. That's right.

2 Q And in the emails, the Bloombergs from Merrill Lynch --
3 in the Bloombergs from Merrill Lynch where they offered to
4 sell PCDS post-Fannie, post-Lehman, they offered, as points
5 of comparison, lower Tier II CDS for each of those
6 counterparties, correct?

7 A I think that's right, but shall we actually take a look
8 at the Bloomberg?

9 Q All right. So let's go in the white binder.

10 MR. TRACEY: I'm just going to object to this line
11 of questioning. I'm not sure exactly where Mr. Tambe is
12 going. But this is something that Mr. Chu wasn't aware of
13 and didn't consider in the course of his valuation. And so,
14 it's not anything that QVT is relying on for his good faith
15 or reasonableness. I'll point that out, and we can see
16 where the questioning goes.

17 MR. TAMBE: May I respond to that?

18 THE COURT: All right.

19 MR. TAMBE: That's exactly the point. The fact
20 that these are documents from October 1 and October 2 that
21 were not considered by QVT makes our point that their
22 calculation was not reasonable and was not in good faith.

23 THE COURT: I think it's part of the general
24 inquiry into what was available, what was looked at, and why
25 or why not. So I'll allow it.

1 Go ahead, Mr. Tambe. Did you have a number in the
2 binder?

3 MR. TAMBE: I do. So in the white binder, --

4 THE COURT: It's in the white binder?

5 MR. TAMBE: -- it's Exhibit 1581.

6 THE COURT: All right.

7 THE WITNESS: 1581, okay, uh-huh.

8 BY MR. TAMBE:

9 Q Right? And that is one of the Bloombergs from Merrill
10 Lynch dated October 1, 2008 offering PCDS protection,
11 correct?

12 A Yes, that's what it -- that's what the Bloomberg is
13 about, uh-huh.

14 Q And what you have in the individual lines -- for
15 example, on line one, is 16.5 million notional for Arboss
16 (ph), right?

17 A Yes, it says 16.5 million Arboss.

18 Q And you've got a coupon. You said it's a high coupon
19 of about 750 basis points. Do you see that?

20 A Uh-huh, yes.

21 Q And then you see an LT2 CDS equals 500. Do you see
22 that?

23 A Yes.

24 Q Right, and that's a reference to the CDS for lower Tier
25 II capital for that issue, correct?

1 A I would think so.

2 Q Well, you know so.

3 A That's what I -- I mean, as I said, I didn't see this
4 at the time. I think that's what LT2 -- if you ask me
5 today, LT2 CDS probably does refer to subordinated, i.e.,
6 lower Tier II capital CDS. I'm sorry. At which point did
7 you --

8 THE COURT REPORTER: (Inaudible.)

9 THE WITNESS: Okay. Sorry.

10 BY MR. TAMBE:

11 Q And if you turn to the next tab in that same white
12 binder, it's CX-1582. And that's another offer to sell
13 protection from Merrill Lynch on several preferred equity
14 issuers, correct?

15 A Yeah, it's a group of PCDS offerings from Merrill,
16 yeah.

17 Q And again, it's -- there's a coupon there, but no
18 points upfront, correct?

19 A Correct.

20 Q And for each line item, there's a point of comparison
21 to lower Tier II CDS spreads, correct?

22 A Yes, LT2 CDS appears on each line.

23 Q So regardless of what you within QVT may have thought
24 about the breaking down of the relationship, Exhibit 1581
25 and 1582 show that at least 1 dealer was offering PCDS

1 protection and offering as a point of comparison lower Tier
2 II CDS?

3 A Yes, there is a comparison. I agree there's a
4 comparison.

5 Q And not charging points upfront?

6 A Yes, there is no points upfront in this offering.

7 (Pause)

8 MR. TAMBE: So I think we're done with that
9 document, and I think we are done with the opening slides.

10 (Pause)

11 MR. TAMBE: I'm going to change topics, Your
12 Honor.

13 THE COURT: Okay.

14 MR. TAMBE: If I can take a five-minute break,
15 we'll see where we will go next.

16 THE COURT: Yeah.

17 MR. TAMBE: Thank you.

18 (Recessed at 3:04 P.M.; reconvened at 3:17 P.M.)

19 THE CLERK: All rise.

20 THE COURT: You ready?

21 UNIDENTIFIED SPEAKER: Your Honor, Mr. Tambe is
22 still in the hall. I'll go get him.

23 THE COURT: Okay.

24 (Pause)

25 MR. TAMBE: Just a couple of last questions, Your

1 Honor.

2 THE COURT: Okay.

3 BY MR. TAMBE:

4 Q Going back to a discussion we had this morning,
5 Mr. Chu, we talked about PMI and MTG and the replacement
6 trades you had done in those two names; do you remember?

7 A Yes, I do.

8 Q And you did a lot of those transactions -- you did a
9 lot of those replacement transactions on 9/15, correct?

10 A Yes. I did most of them on 9/15.

11 Q Now, PMI and MTG were names that were included in the
12 market quotation requests that went out to the market,
13 correct?

14 A Yes, they were.

15 Q And you know that you did not receive back a single
16 quotation from any dealer for any of those positions.

17 A I think that's right. I think we did not receive
18 market quotation in those names.

19 Q So, I'm going to be a little bit more precise than
20 that. On names in which you had actually transacted
21 throughout the day on September 15th, you did not get back
22 even one quotation from those dealers in response to your
23 email requests, correct?

24 A In MTG and PMI, I think that's right, that we did not
25 get market quotation back on those names.

1 Q With some trepidation, I'd like to go back to 2108 and
2 only for a short while. So, Exhibit 2108 is the spreadsheet
3 we were talking about before lunch.

4 A Okay.

5 Q I'll probably asked your technician to pull it up so
6 that you can control it from --

7 A Okay. That's fine.

8 Q -- the stand. And let's start with Lehman Positions
9 Arthur as the tab.

10 A Okay. By the way, is the volume more reasonable now?

11 THE COURT: It's good.

12 THE WITNESS: Okay.

13 THE COURT: It's good.

14 THE WITNESS: Okay.

15 BY MR. TAMBE:

16 Q So, I'd like you to make sure the filters are all clear
17 so we're seeing all the transactions that appear on this
18 sheet and, then, we'll start doing some filtering.

19 (Pause)

20 Q Is it completely unfiltered? Let me know when it is.

21 (Pause)

22 A Yes. I think it is unfiltered and we're in the
23 worksheet, Lehman Positions Arthur.

24 Q Right. And if you just go over to the right a little
25 bit. A few more columns. Okay. So, stop.

1 AQ -- I believe it is filtered for Arthur Chu, though,
2 correct?

3 A Oh, yes, it is filtered under Responsible Party, Column
4 AQ, it says; AC, which is me.

5 Q So, these are -- this is the population of transactions
6 that you inputted values for, correct?

7 A Yes. I think -- I think this should be everything.
8 Yep.

9 Q Why don't you -- why don't you take a moment and make
10 sure you're comfortable with -- that that's what this is.

11 (Pause)

12 A Yeah. There's -- yes. I mean, there's some set of
13 stuff down here from Rows 854 downwards. I actually don't
14 -- I don't believe those are actually at issue in this case.
15 But I think the stuff above that should be the universe.

16 Q Okay. So, now, let's filter this just to isolate the
17 preferred transactions.

18 A Okay.

19 (Pause)

20 A Okay. So, I've completed that filter in Column B,
21 searching for the phrase, contains "pref".

22 Q And you'll see the record at the very bottom of the
23 page says 60 records found. Do you see that?

24 A I do see that, 60 of 1389 records found.

25 Q But that's the right count number, correct?

1 A Yes. I think that's the right count number.

2 Q So, now, let's go over to the column that said 9/21/08;
3 BB looks like the column.

4 A Okay. So, I'm in Column BB now.

5 Q So, let's just, on the drop down menu in Column BB,
6 filter it to remove the blanks.

7 A Oh, boy.

8 (Pause)

9 A Okay.

10 Q So, now, that you've -- did you increase the size of
11 the text a little bit?

12 A Yeah, sorry. I got -- okay.

13 Q If you filter -- so, the filters you've applied have
14 now isolated trades that you valued, that were preferred and
15 for which you entered some value in the Column marked BB,
16 correct?

17 A Well, as I said, I don't recall whether I entered
18 anything in Column BB. I can confirm that I filtered so
19 that I eliminated all the cases in which Column BB is blank.

20 Q So, someone or something populated that Column BB in
21 the Lehman Master Arthur sheet that we're looking at; is
22 that right?

23 A Well, yes. The cells are populated --

24 Q Right.

25 A -- so something must have happened.

1 Q Okay. And you have no idea what that something is that
2 happened that populated those cells in a Column that says
3 Level on 9/21/2008?

4 A I don't know what that is.

5 Q Okay. The other thing that's happening in this sheet
6 is Column BD, right? And that's simply subtracting AN from
7 BB, correct? A-N as in Nancy.

8 A Yes. Like, for instance, BD, Boy David, 116 is equal
9 to BB, Boy Boy, 116 minus AN, Apple Nancy, 116.

10 Q And that large negative number, right, shows that AN is
11 a lot larger than BB, correct?

12 A Yes. It's a negative number. So, the second number is
13 bigger than the first number.

14 UNIDENTIFIED SPEAKER: I'm not sure what you said
15 there.

16 (Laughter)

17 THE COURT: Siri apparently is having a hard time
18 following us.

19 (Laughter)

20 MR. TAMBE: I didn't know Siri was on the line.

21 THE COURT: I didn't either.

22 MR. TAMBE: Siri's always on.

23 (Laughter)

24 BY MR. TAMBE:

25 Q All right. And, so, but this collection of trades that

1 have some value inputted for 9/21/2008; what is the total of
2 the differential column? You can just highlight that,
3 correct and it'll tell you the --

4 A Okay. So, I'm going to highlight the filtered bit on
5 BD which has one, two, three, four, five, six, seven, eight
6 and does two, four, six -- sorry. It's got ten -- it's got
7 ten line items.

8 Q Right.

9 A It's minus \$20,728,204.

10 Q So, what that tells you is that, as a collection for
11 these ten items, the value in Column AN, as in Nancy,
12 exceeds the value in Column BB by about \$20 million,
13 correct?

14 A Yes. That's the sum of the numbers I just talked
15 about.

16 Q And the values in the AN Column are the values that
17 underlie the claim that's being pursued in this litigation,
18 correct?

19 A I think that's kind of correct. I thought the way it
20 worked is actually that Column AO, which is the value of the
21 derivative is summed up across all of the 836 derivatives in
22 question. And, then, one subtracts from that the collateral
23 that was held at the time.

24 So, I wouldn't really know whether or not that the
25 difference between AO and AN is equal to the collateral of

1 each line item.

2 Q We can ask Mr. Wohlman (ph) that. He would know that,
3 right?

4 A You're free to ask him. I don't know whether he would
5 know the answer to that or not.

6 Q You don't know that?

7 A I don't know the answer to that, no.

8 Q Let's go back to Lehman Positions Master.

9 A Okay.

10 (Pause)

11 A Okay. So, I'm back on the worksheet, Lehman Positions
12 Master.

13 Q And can we make sure that this one is not filtered for
14 anything?

15 (Pause)

16 A It's (inaudible).

17 Q Does this sheet have a Column BBB?

18 A Just hang on a second.

19 (Pause)

20 A Okay, yes. So, I think this has the right number of
21 records on it. Sorry. What was your question?

22 Q Does this sheet have a Column BBB?

23 A BBD?

24 THE COURT: You mean a Column BBB or --

25 MR. TAMBE: A column that has a heading BBB.

1 THE WITNESS: I don't know. I mean -- I don't
2 think so because if I hit control right, I go -- it takes me
3 all the way to the right, Column XFD, and, so, the way that
4 -- we can try it in the body but it just took -- takes me
5 all the way over to the right.

6 So, I don't see anything that says BBB.

7 BY MR. TRAMBE:

8 Q Right. So, nothing in 2108 that has -- that goes that
9 far out.

10 Have you reviewed any version of this document that
11 existed as of 9/21/2008?

12 A Of Lehman Positions Master. I don't recall looking at
13 a tab called Lehman Positions Master as of 9/21/08 in any of
14 the sheets.

15 UNIDENTIFIED SPEAKER: 1552.

16 BY MR. TAMBE:

17 Q I going to show you a spreadsheet. It might be
18 something you recognize. So, it's tab 108. It's a native
19 document.

20 (Pause)

21 UNIDENTIFIED SPEAKER: Yeah. That's 1552.

22 BY MR. TRAMBE:

23 Q So, let's go to Exhibit 1552, which a native
24 spreadsheet and I'll just --

25 A Okay. So, I don't --

1 Q You can -- you're done with that.

2 A Do I need --

3 Q There's nothing in the binder for you to look at.

4 A Okay. Okay.

5 Q So, we go to 1550, excuse me, two. And it'll come up
6 and I think it's again being driven by your computer so you
7 should be able to navigate around it.

8 (Pause)

9 MR. TRACEY: So, there's no hard copy of that?

10 MR. TRAMBE: There's no hard copy.

11 MR. TRACEY: Okay.

12 MR. TRAMBE: It's on the (indiscernible). Okay.

13 BY MR. TRAMBE:

14 Q So, what's been pulled up on the screen is CX1552.xls,
15 that's an excel spreadsheet, and you'll see if has a Lehman
16 Positions tab. Are you familiar with this document?

17 A Is there some form a medi data that I can look at that
18 would help me?

19 Q Sure. I'll give you what I believe to be the medi data
20 for this document.

21 A Uh-huh.

22 (Pause)

23 UNIDENTIFIED SPEAKER: It's (inaudible) --

24 MR. TRAMBE: We'll call it 1552 medi data. We'll
25 put a sticker on it, Your Honor.

1 THE COURT: Okay.

2 (Pause)

3 BY MR. TRAMBE:

4 Q So, I've given you -- I think I've handed you a
5 document that we're going to mark as CX1552M as in Mary, and
6 that is, we believe, the medi data for this particular
7 document. And I'm sure the folks at QBT will tell us if
8 that's wrong.

9 MR. TRACEY: I don't know.

10 MR. TRAMBE: You don't know. That's okay.

11 BY MR. TRAMBE:

12 Q So, you'll see the medi data has a reference of date
13 created, 9/16/2008 and date modified of 9/21/2008; do you
14 see that?

15 A So -- right. So, date created 9/16, date modified
16 9/21. Yes. I see that in the medi data.

17 Q And you see the author as Joel Wohlman?

18 A Yes. I see it.

19 Q Okay. Are you -- did you work in a spreadsheet like
20 this as of 9/21/2008?

21 A Maybe I can look at the spreadsheet --

22 Q Sure. Spend some time looking at it --

23 A -- for a second so --

24 Q -- to see if you're familiar with it.

25 (Pause)

1 A I'm not -- I can't find the mouse anywhere on my
2 screen. Oh, here it is. Okay. Thank you.

3 (Pause)

4 A Okay. So, what was the question again?

5 Q Is it a document you're familiar with?

6 A Well, I don't -- no. I don't remember this version of
7 it. I mean, it certainly looks familiar because it looks
8 like a lot of the other spreadsheets. But I can't
9 specifically remember this version of it.

10 Q Okay. And do you know whether this version of the
11 document pulls prices for preferred securities or PCDS from
12 Markit Partners?

13 MR. TRACEY: No, no. I was just lodge an
14 objection. This witness hasn't been able to identify the
15 document. If Mr. Tambe wants to ask him to read it, sitting
16 here today, if he thinks that's useful, I don't have any
17 particular objection to it. But I do object to the
18 document. I think this is the wrong witness.

19 THE COURT: Mr. Tambe.

20 MR. TAMBE: He's the witness who valued PCDS. We
21 were looking at a sheet that he worked on that had a column
22 that said; 9/21/2008 which had values for --

23 THE COURT: The other sheet. Not this sheet.

24 MR. TAMBE: The other sheet. Not this sheet.

25 THE COURT: Right.

1 MR. TAMBE: But the other sheet that had values
2 for 9/21/2008. He doesn't know where those numbers came
3 from. This is a QVT document. It's part of the valuation
4 progression of spreadsheets.

5 He can look at this document and see if this
6 identifies where those values came from.

7 THE COURT: Well, can we do it in the context of
8 -- well, Mr. Chu has already said he doesn't remember,
9 right.

10 MR. TAMBE: Uh-huh.

11 THE COURT: So, is --

12 MR. TAMBE: I will -- well, this spreadsheet might
13 identify for him where the prices were drawn from.

14 THE COURT: Well, isn't it a -- aren't you
15 attempting to refresh his recollection?

16 MR. TAMBE: I sure am. And we'll see if it's
17 refreshed.

18 THE COURT: So, on that basis, Mr. Tracey can --
19 he --

20 MR. TRACEY: On that basis, I have no objection.

21 THE COURT: Okay.

22 BY MR. TAMBE:

23 Q So, if you could start with Column B for preferreds.

24 A Okay. Okay.

25 So, I am sorting for the preferreds under Column B in

1 the tab Lehman Positions.

2 Q And you see at the bottom there is a count of 60; do
3 you see that?

4 A Yes, 60 of 814 records found.

5 Q Let's go to AN as in Nancy. Now, let's filter out the
6 blanks.

7 A In what column, AL?

8 Q In Column AN as in Nancy.

9 A Okay. It's right --

10 (Pause)

11 A Okay. So, I'm just having to re-filter this. Hang on
12 a second.

13 (Pause)

14 A Okay. So, which column am I supposed to filter for the
15 non-blanks?

16 Q AN and in Nancy.

17 A Okay.

18 Q And if you can filter that through --

19 A It's not going to give you anything. It's --

20 Q Okay.

21 A The only thing that aren't blanks.

22 Q What?

23 A Okay.

24 Q Let's go to Column BB in this document.

25 A Uh-huh.

1 Q And let's filter that column, which, again, says Level
2 on 9/21/2008. Let's filter out the blanks in that one.

3 A Okay. So, on Column BB, I'm filtering out the blanks.

4 Q Here.

5 A Uh-huh. Okay. And there are ten records that remain.

6 Q Okay. And if you can over to the left in this
7 document.

8 A Which column are you looking for?

9 Q V, W and X.

10 A Okay.

11 Q So, in V, W and X, it says at the top of V, 9/15/2008;
12 W says 15 percent and we get error messages for what shows
13 up in market spread and market -- Mark IT spread and Mark IT
14 Mark; do you see that?

15 A Well, there's -- the Mark IT spread gives you #name and
16 the Mark IT Mark gives you #n/a.

17 Q And, so, in the live version of the spreadsheet, those
18 formulas sent you somewhere, correct?

19 A What do you mean; sent me somewhere? There are
20 formulas here.

21 Q Yeah. And, so, for example, you are in line 116 B --

22 A Yes.

23 Q -- B-116, the formula says; get Mark IT spread; do you
24 see that?

25 A Yes. It says; CDS.get Mark IT spread and the two

1 arguments are B 116, which is the ty-fi, this Barclay's
2 credit default swap and \$V\$1, meaning sell V1 as of
3 9/15/2008.

4 Q Okay. Does this refresh your recollection that at
5 least as of 9/21/2008, when you were valuing BCDS, your
6 spreadsheet, a QVT spreadsheet, was seeking data from Mark
7 IT?

8 A Well, I think the -- if I'm not mistaken, I think the
9 spreadsheet tries to get Mark IT data for everything. Let's
10 just --

11 Q And there was Mark --

12 A -- let's just take out this text filter and take a
13 look.

14 (Pause)

15 A Right. So, as I said, I think what -- the way this
16 spreadsheet works is whether or not it's a preferred CDS or
17 not, it -- I'm looking at the Cell V-4, which is the first
18 hi-fi, and it has the same formula. It, just instead of
19 referencing -- hold on. What I just do?

20 Instead of referencing that preferred security, it
21 references F-100320 DS6. So, I think all this is saying is
22 that there was -- the system was trying to query the Mark IT
23 database for all of these names.

24 Q And this is as of 9/21/2008, correct?

25 A Well, yes, it -- well, it says it was modified as of

1 9/21/2008.

2 Q So, the last time it was modified, that's what was
3 doing on Column B looking to get Mark IT spread data,
4 correct?

5 A Yes, that looks like what the function is trying to do.

6 Q Right. And that's approximately two days before
7 Mr. Gold writes his note to investors about what QVT plans
8 to do to recover losses, correct?

9 A Well, yes, the 21st is two days before the 23rd; that's
10 right.

11 MR. TAMBE: No further questions, Your Honor.

12 THE COURT: Okay.

13 (Pause)

14 THE COURT: Redirect?

15 MR. TRACEY: Yes, Your Honor.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 BY MR. TRACEY:

19 Q Okay. We're going to keep you a little longer.
20 We'll start with the PCDS where Mr. Tambe left off.
21 Mr. Tambe said over and over again referred to your new
22 methodology for valuing PCDS; do you recall that?

23 A Yes. I think he used that phrase.

24 Q Which sounds like you threw out some old methodology
25 and brought in a new one. Did you do that?

1 A Well, only to the extent that our old methodology was
2 to use Lehman Brothers marks that they gave us and Lehman
3 didn't exist anymore. So, we, I guess, couldn't use that
4 methodology anymore. Only to that extent, yeah.

5 Q And he also referred to the fact that you didn't use
6 the nav marks that you had on the books from August. Why
7 didn't you just use those marks for the PCDS?

8 A Oh, well, I think there are several reasons. One of
9 them is that the nav mark, by its nature, is a mid-market.
10 And, so, even there had been no move in the market
11 whatsoever, and we were calculating replacement costs, we'd
12 have to make an adjustment for -- rather than being in the
13 mid side of the market, we'd have to be on the offered side
14 of the market.

15 But there, of course, was a big move in the market.
16 And, so, you -- there's no way that one could just simply
17 use the 829 mark. And, finally, and very importantly, the
18 mid-mark is the average of the mark computed using the bid
19 spread and the offered spread that Lehman Brothers provided
20 to us on 8/29.

21 While it was plausible to me maybe even likely, that
22 the bid side of the market worked. Say they were making a
23 two hundred -- a two hundred and fifty market, in spread
24 terms, and we were marking it at two twenty-five, it
25 wouldn't surprise me if the bid side would work if they want

1 to unwind -- they'd want us to unwind protection, they'd pay
2 two hundred for it.

3 I think that it was clear that there was no offered
4 side to the market whatsoever.

5 So, for purposes of calculating where that replacement
6 cost would be, I don't think their mark is at all
7 enlightening as to where an offer of protection, i.e., a
8 replacement could have occurred even if the market hadn't
9 moved between 8/29 and 9/15 which, of course, it did.

10 Q And in trying to come up with an appropriate loss
11 calculation for PCDS in September and October, 2008, were
12 you aware of any literature that would show you a
13 methodology for how to -- how to value PCDS?

14 A No. I don't think so. I mean, I think if you looked
15 around, you could probably find some broker research or
16 something on PCDS.

17 But we were trying to figure out where PCDS would be
18 offered when this, basically, the market maker in it or the
19 inventor of it had gone away. And, so, there wasn't any
20 literature, that I knew of, that would have told me where it
21 should be.

22 And, in any event, even if such literature existed, I'm
23 not sure if you showed up to Goldman, Sachs saying; hey,
24 look at the PDF file. It says you should offer it to me
25 here. I mean, they're going to offer it to you where they

1 can lay off the risk, not where a literature, a piece of
2 literature tells them they can offer it.

3 Q And I think you told Mr. Tambe that you, prior to
4 September 15th, 2008, did not have your own model for
5 valuing PCDS. Do I remember that right?

6 A That's right.

7 Q Are you aware of whether Lehman Brothers, the inventor
8 of this product, had a model?

9 A I don't know whether Lehman had a model or not; no.

10 Q Did anyone at Lehman Brothers in all the years that you
11 were trading this ever mention a model that they had?

12 A No. From time to time, they would mention what I
13 called these rules of thumb, when we did a trade, okay, sub
14 is here, senior is here. Let's trade here.

15 But, as I said, I don't think I would consider that a
16 model. That's just a reference point.

17 Q And Mr. Tambe asked you whether you back tested your
18 valuation of PCDS. Are you aware of any test that could
19 have been used to back test the values for PCDS on September
20 15, 2008?

21 A Well, no, because -- okay.

22 I think there are two separate questions. One is; did
23 you look at whether the CDS price that you paid upfront was
24 equal to par minus preferred at the time you did the trade?

25 I think I told Mr. Tambe; no, we didn't do that test.

1 But I think -- when I think of the word back testing,
2 it would mean we're trying to make a prediction as to where,
3 in an environment similar to September 15th, 2008, you know,
4 four and a half year PCDS with 145 basis point coupon, which
5 roughly characterizes our portfolio, referencing banks would
6 trade.

7 And in order to back test that, you would need some
8 kind of data on where PCDS had traded in a similar
9 environment.

10 So, we didn't have any data like that because PCDS was
11 a product that was invented around 2005. So, I'm not
12 exactly sure what the word back testing would even mean in
13 this context, you no.

14 Q Is there any reason why your approach to valuing the
15 PCDS as of September 15, 2008 wouldn't equally apply at the
16 time that you entered these trades?

17 MR. TAMBE: Objection. Speculation, Your Honor.
18 Is there any reason why?

19 MR. TRACEY: Well, Your Honor, it's the same
20 question Mr. Tambe asked.

21 THE COURT: Well, maybe if the word why; is there
22 any --

23 MR. TRACEY: I'll rephrase, Your Honor.

24 THE COURT: I think it's just the word why.

25 MR. TRACEY: I understand.

1 BY MR. TRACEY:

2 Q Are there any factors or changes that would explain why
3 the methodology that you used would work as of September 15,
4 2008 and wouldn't be applicable at other times?

5 MR. TAMBE: And, again, here we're -- I would
6 reiterate my objection that if his answer's going to be
7 based on things he did after 10/15/2008, we shouldn't be
8 going there, Judge. It's what he knew and did at the
9 time --

10 THE COURT: He's attempting to ask about
11 applicability.

12 MR. TAMBE: Uh-huh.

13 THE COURT: So, it's not why in the philosophical
14 sense. It's just as a matter of the applicability of the
15 one the one methodology to the other situation, right?

16 MR. TRACEY: Right.

17 THE COURT: So --

18 MR. TRACEY: Which was a big subject of the cross-
19 examination.

20 THE COURT: Right. So, your objection is
21 overruled, Mr. Tambe. You can answer the question, Mr. Chu.

22 THE WITNESS: I'm sorry. Could you just repeat
23 the question one more time?

24 MR. TRACEY: Sure.

25 THE WITNESS: I'm --

1 MR. TRACEY: Sure.

2 BY MR. TRACEY:

3 Q Are there any factors or changes that would explain why
4 the methodology that you used would work as of September 15,
5 2008 and wouldn't be applicable at other times?

6 A I mean, sure, from a mechanical point of view, if we
7 think back to the other trades that we did, and I'm thinking
8 of an exhibit that you showed me, I don't know, a few days
9 ago, now, which was a transaction in which we bought
10 protection from Lehman Brothers in Wachovia WB.

11 And the setup for that transaction was Lehman said; we
12 have a potential seller of Wachovia PCDS in and around 325
13 basis points in a certain size and we wound up trading at
14 340 basis points. I think that maturity was December 20th,
15 2012.

16 So, at that time, we didn't exchange any money. It was
17 par PCDS swap but the reason we were able to do it was
18 because Lehman had seller of protection who believed that
19 there was a significant difference in the probability of
20 deferral over the term of the CDS to 12/20/11 versus,
21 perhaps, what the preferreds themselves implied about the
22 probability of deferral over a longer period of time.

23 And we didn't believe that. Apparently, Lehman
24 suggested that they didn't believe it when they said; we
25 think the curve should be inverted.

1 But, in any event, the point is, they had a seller who
2 believe that. And, for that reason, we were able to source
3 that PCDS at that level in, I don't remember, maybe it was
4 June, 2008. I don't remember the exact date.

5 However, the market conditions were sharply different
6 in September of 2008. We had been trying to find those
7 sellers of protection continuously since -- or several times
8 since our last trade in July 30th, 2008.

9 We couldn't find any such sellers. We were asking
10 Lehman; offer us protection. And Lehman was telling us they
11 can't find those sellers of protection.

12 So, there were no such sellers of protection that we
13 could observe at the time and, as a result of that, it
14 wasn't possible to do those kinds of trades again.

15 So, then, coming back to our methodology, the question
16 we asked ourselves is; if you are a dealer who is in this
17 position, who has asked to offer such a large volume of
18 protection to QBT on PCDS and you don't have that seller on
19 the other sides; what's your alternative? And, therefore,
20 we said your alternative is to sell short the preferreds
21 themselves.

22 Q I think Mr. Tambe asked you a question about your use
23 of the same approach for PCDS where the underlying preferred
24 were trading at a moderate discount and also a significant
25 discount. Is there any -- do you believe that that's

1 reasonable?

2 A Sorry. To use the same approach regardless of, you
3 know, of kind a -- across a range of dollar prices --

4 Q Right.

5 A -- yes, inasmuch as the concept is if the dealer wishes
6 to upfront hedge his deferral risk, the amount he has to
7 charge is always equal to a hundred minus the price of the
8 preferred because if there's a credit event, he's got to
9 effectively cover his short at a hundred.

10 So, if it's trading at 80, he's got to charge 20
11 upfront. If he's trading at 60, he's got to charge 40
12 upfront and so on and so forth. So, just as a matter of
13 math, it -- the amount you have to charge is the same.

14 Q And I think Mr. Tambe pointed out -- well, you said
15 that -- I recall that one of the factors that changed the
16 market was the Fannie and Freddie conservatorship; is that
17 correct?

18 A I believed it was, yes.

19 Q And Mr. Tambe pointed out that they were GSE's; do you
20 recall that?

21 A Yes.

22 Q And why did you think that was a significant factor
23 given that Fannie and Freddie were GSE's as opposed to
24 banks?

25 A I'm sorry. Unless I recall incorrectly, I'm not sure I

1 thought -- it wasn't so much the fact that they were GSE's
2 that I thought was significant. It was that these were very
3 systemically important institutions. They are big
4 institutions and when it came time for the authorities to
5 decide how do we deal with these institutions that are, you
6 know, globally, financially important, the way they decided
7 to do it is they said; debt is debt and it will be, you
8 know, worth a hundred cents on the dollar or payoff at a
9 hundred. And equity and preferreds are equity and they will
10 be severely diluted and/or have their dividends turned off
11 for an indefinite period of time.

12 And that's the distinction I think that I was trying to
13 draw there.

14 I'm not sure people used the word siffy (ph) back then
15 but, you know, Wells Fargo was also a very big bank.
16 Goldman Sachs was also a very big bank. You know, BNP was a
17 big bank and so on, you know.

18 Q I'd like to return to the Merrill Lynch offer that you
19 were asked about which is Claimant's Exhibit 1581.

20 A Okay.

21 Q That's in the white book.

22 A Uh-huh.

23 Q I'll just take that one as an example. There's another
24 one on October 2nd but let's look at this one.

25 Again, were you aware of this at the time that you

1 performed your work on the PCDS valuation between September
2 15th and October 15th?

3 A I was not.

4 Q And what date did you complete your valuation work on
5 the PCDS?

6 A I think I completed it on September 28th.

7 Q And, obviously, you were aware of this on September
8 28th?

9 A Well, no, because that would be knowledge of the
10 future.

11 (Laughter)

12 Q That was supposed to be a foundation question, sorry.

13 (Laughter)

14 A Sorry. I was just answering the question. Maybe Siri
15 knows.

16 (Laughter)

17 Q And did you, before completing your work, review your
18 Bloomborgs to determine whether you could find any
19 information on PCDS's that would help you in your valuation?

20 A Well, yes. I mean, I was looking at numerous broker
21 runs to look for preferred prices, bid offer, market color.
22 I think it was quite likely, although I don't remember
23 specifically searching for the phrase, PCDS, what I know for
24 certain is I didn't have any PCDS, you know, markets or
25 offers or broker runs or anything like that.

1 So, yeah, that's what I got from Bloomberg.

2 Q And did you do any similar search after you completed
3 your valuation work?

4 A What do you mean? Did I keep searching my Bloomberg
5 after September 28th?

6 Q Correct.

7 A No.

8 Q Am I correct that the document that's been marked as
9 Claimant's Exhibit 1581 is an offer of protection in PCDS?

10 A Yeah. It certainly looks that way.

11 Q And as of September 15th, 2008, did you have a belief
12 as to whether Merrill Lynch was making a market in PCDS?

13 A Well, we had never traded with Merrill Lynch in PCDS
14 before. We didn't know them to be a market maker, no.

15 Q And had you made inquiries into the market about who
16 was trading in PCDS?

17 A As I said, I think I may have asked around a little bit
18 about PCDS after September 15th but I don't remember whether
19 I specifically inquired about Merrill Lynch or not.

20 Q And if Merrill Lynch were a market maker in PCDS as of
21 September 15, 2008, would you have expected to be aware of
22 it?

23 MR. TAMBE: Objection. Calls for speculation.

24 THE COURT: Well, hold on a second. The question
25 was; would you have expected to be aware if there was a

1 market being made in PCDS.

2 MR. TRACEY: Right. This gentleman was trading in
3 PCDS --

4 THE COURT: That's a fair question.

5 MR. TRACEY: -- for years.

6 THE COURT: You can answer.

7 THE WITNESS: Well, as I said, to the extent I
8 probably searched for the word PCDS in my Bloomberg, if
9 there had been a Merrill Lynch run or offering, I think I
10 would have come across it.

11 I think that -- I mean, I traded with Merrill
12 Lynch. I traded with many different dealers across the
13 street and I never traded PCDS with them before that. So,
14 whether or not I would have known that Merrill Lynch was a
15 market maker in PCDS had they been a market maker in PCDS, I
16 mean, I suppose there's a reasonable chance I would have
17 found out about it. But it's -- it's just a little hard to
18 say what I would and wouldn't have known. What I know is
19 that as of September 15th, I didn't know them to be a market
20 maker in PCDS.

21 BY MR. TRACEY:

22 Q And, looking at Claimant's Exhibit 1581, is this a
23 broker run in the sense of having a bid and offer or PCDS?

24 A No. This is an offering of PCDS. There's no bid side
25 that's indicated. It's not like -- for instance, the first

1 one, RBOS, they're not making it, I don't know, 700, 750 or
2 something. They're just saying; we can offer 16.5 million
3 RBOS at 750.

4 Q And is there anything that stands out to you in this
5 offer regarding the tenors of the various things that are
6 being offered?

7 A Well, they're all March 20th, 2016. That's different
8 than most of the tenors that QBT had.

9 Q And is that what's known as on the run tenors?

10 A No. Those would not be the on the run tenors. At the
11 time, five-year would be on the run for CDS generically
12 which would have been September 20th, 2013.

13 Q And do you know whether Merrill Lynch had sold
14 protection to Lehman that it lost prior to making this offer
15 of protection?

16 MR. TAMBE: Can I get a time frame, Your Honor, as
17 to source of knowledge?

18 MR. TRACEY: Sure.

19 BY MR. TRACEY:

20 Q At any time before October 15th, were you aware of
21 that?

22 A No. As I said, I wasn't even aware of this offering,
23 no.

24 Q And are you aware of that today?

25 MR. TAMBE: Objection, Your Honor, again, we were

1 broadly denied discovery into what analysis this witness may
2 have done.

3 THE COURT: All right. The last question I think
4 we'll drop.

5 (Pause)

6 BY MR. TRACEY:

7 Q Mr. Tambe asked you a number of questions about a
8 column in the 2180 spreadsheet that was labelled as of 9/21;
9 do you recall that?

10 A Yes.

11 Q And did you utilize -- did you utilize the numbers in
12 that column in your calculation of the loss for PCDS in
13 connection with this claim?

14 A No.

15 Q And were you finished with your valuation of the PCDS
16 on September 21, 2008?

17 A On September 21, no. I was not.

18 Q Did you ever consider using Mark IT Partners to value
19 your PCDS positions for purposes of this claim?

20 A I think we maybe considered it very briefly or
21 considered it in passing. But I think we did not consider
22 it to be a serious source for calculating replacement value.

23 Q And why is that? And, again, I want you to just give
24 me --

25 A Yeah.

1 Q -- your rationale from back September 15 to October 15.

2 A Okay. Well, it might actually be helpful in this
3 respect to pull up one of -- whatever the sheet is that has
4 Lehman Positions Master in it.

5 Q Sure. Can we bring up 2108? 2108.

6 A Okay. Okay.

7 So, I'm in the sheet, Lehman Positions Master, again
8 and I'm going to filter by pref. Okay.

9 And, yeah. So, one reason for it is that what -- okay.
10 So, what I've done is I've filtered Column B for pref once
11 again. There are 60 records once again and I'm looking at
12 the Columns R through V.

13 And you can see that in most cases there's simply no
14 Mark IT CDS data at all. There are a few entries that have
15 numbers in them. But, in general, they're just -- it just
16 says; no Mark IT CDS data at all.

17 And this kind of comports with our understanding of
18 what you would expect from Mark IT because it's an average
19 of dealer opinion and there were very few dealers in the
20 market. We only ever traded with Lehman. But there's more
21 no Lehman. But you wouldn't expect to get Mark IT data.

22 So, I think you would have to be very careful with the
23 data quality here if you used it at all.

24 Q And, to the extent that Mr. Tambe was trying to suggest
25 that you considered -- that you calculated out Mark IT

1 prices for PCDS, and then threw them away; is that accurate?

2 A Well, no. I think the sheet is going to do a
3 calculation based on whatever Mark IT -- you know, whatever
4 Mark IT data it has, the sheet's going to try to do a
5 calculation.

6 But it's just a cell that the sheet calculates. It
7 doesn't mean that that's what we wind up doing the valuation
8 at.

9 Q I think Mr. Tambe also asked you about whether you had
10 a model for valuing PCDS that considered the cost of
11 shorting the preferred; do you recall that?

12 A I'm not sure exactly which question you're referring
13 to.

14 Q Well, let me just ask you; did you consider, in your
15 valuation of the PCDS, the cost that a dealer might incur in
16 shorting preferred as a hedge for a sale of protection?

17 A I think in one way we did, which is we looked at the
18 coupon of the preferreds that was relevant. I think I
19 mentioned before that many of the PCDS's that we had, had
20 very, very low initial spreads, 30, 35 basis points. And,
21 so, we knew it wouldn't make sense for a dealer to short a
22 really high coupon preferred against that. Or, if he did,
23 he would have to charge something in addition to the par
24 minus preferred price.

25 So, in that sense, we considered that cost.

1 One cost we didn't consider is that, I think as we
2 talked about a couple, or I talked about a couple days ago,
3 one of the benefits of CDS, in terms of purchasing CDS, is
4 that it gives you guaranteed borrow over the term and by
5 writing PCDS or any CDS for that matter, a dealer is
6 basically providing that guaranteed borrow to the person
7 who's buying it.

8 To the extent that it would cost something to borrow
9 the preferreds and to the extent that the dealer is taking
10 the risk of the borrow which, you know, could be
11 significant, we didn't take that second step to price the
12 cost of the borrow or to price what it would cost to
13 guarantee the borrow for roughly four and half years.

14 Q And if you had included those costs in your
15 calculation, would that have increased or decreased your
16 client?

17 MR. TAMBE: Objection. Again, Your Honor, it
18 calls for speculation of an analysis that wasn't done at the
19 time. It simply wasn't done.

20 MR. TRACEY: Well, I -- Mr. Tambe specifically
21 asked whether he considered this. I think I'm entitled to
22 explore --

23 THE COURT: He --

24 MR. TRACEY: -- why and why not and what effect it
25 would have had. That's the whole point.

1 THE COURT: I think that's fair. You did ask him
2 a series of questions along those lines.

3 MR. TAMBE: Well, he can say he did consider it
4 but then to say what effect it would have had; he didn't do
5 the calculation. How could he possibly know what effect it
6 would have had?

7 THE COURT: Well, but he can --

8 MR. TRACEY: He can say he doesn't know if he
9 doesn't --

10 THE COURT: -- he can say directionally.

11 MR. TRACEY: Right.

12 THE COURT: If you know.

13 THE WITNESS: Yeah. I think it would cost -- to
14 guarantee a borrow costs money and I think that that would
15 be something the dealer would -- if they were able to secure
16 it at all, they would be charged in order to do that. So,
17 that would increase the claim.

18 BY MR. TRACEY:

19 Q Mr. Tambe asked you a series of questions about the
20 size of the preferred issuances or the underlying preferred
21 securities relating to the PCDS; do you recall that?

22 A I remember he asked me some general questions about
23 that; yep.

24 Q And the liquidity of the preferred is -- was that
25 something you considered?

1 A Sorry. Are you saying did I look at the size of the
2 issue in thinking about the magnitude of the bid offer
3 spread?

4 Q Yes.

5 A No, not specifically, no.

6 Q And what information, if any, did you consider in
7 connection with your assessment of the liquidity of the
8 preferred?

9 A Oh, well, I wasn't concerned with the size of the
10 issue. I was concerned with the size of the market that was
11 being made. So, for instance, when Peter Camp said; all but
12 low were 500 by 500, that's 500,000 by 500,000; that's the
13 kind of information I would consider. It doesn't, you know,
14 it says nothing about the size of the issue. Well, maybe
15 his run has the size of the issue.

16 But what I'm concerned about is what's the size of the
17 market when David Orridge said; I'm a 60 bid for 5 million
18 Sun Trust, that's telling me about what the depth of the
19 market is. I don't know how big that Sun Trust issue is.
20 It's probably hundreds or millions or maybe even a billion
21 dollars.

22 What I want to know is how much can you buy or sell in
23 the market not what the size of the issue is.

24 Q And did you, in fact, try to determine from the
25 information available to you, what the size of the market

1 was at that time?

2 A Sorry. The size of markets that were being made?

3 Q Yes.

4 A I would say we didn't undergo like a systematic
5 analysis of all the bids and offers that we could see. But
6 we could see that the bids and offers were not big. I mean,
7 we didn't see -- I didn't see markets like 50 million up or
8 something like that. We can trade \$50 million on a side in
9 a preferred.

10 I saw numbers I think Peter Camp's is definitely on the
11 very small side. I didn't see a lot of five -- I don't
12 think I saw any other 500 by 500.

13 But, you know, the two, three, five, ten million is
14 what I recall seeing and I think that comports with my own
15 experience with what can be traded in the preferred market.

16 Q Let me direct your attention to Claimant's Exhibits
17 2096. That should also be in the white book.

18 A Okay.

19 THE COURT: Could I ask a couple of questions?

20 THE WITNESS: Sure. Yeah.

21 THE COURT: Mr. Tracey was just asking you a
22 series of questions about the size of the market for a
23 particular issuance.

24 THE WITNESS: Uh-huh.

25 THE COURT: I was under the impression that it was

1 part of QVT's position that trying to make certain trades or
2 making certain trades would have a market impact trading an
3 order of magnitude of certain securities would have the
4 effect -- would have a market impact, would depress the
5 prices of the securities because a large transaction as
6 against the size of the market could have that effect.

7 And you seemed to give Mr. Tracey a slightly
8 different answer now. So, I'm confused.

9 THE WITNESS: Okay.

10 THE COURT: Maybe they were two different
11 questions that were asked. But thematically it's the same
12 idea.

13 THE WITNESS: Okay.

14 THE COURT: Can you clarify that for me?

15 THE WITNESS: But perhaps I didn't express myself
16 clearly.

17 I think the recap that you just gave is an
18 accurate representation of the idea or the position that QVT
19 was trying to express here.

20 THE COURT: Vis-a-vis the entire 371 notional
21 amount of the preferred that was protected by the PCDS?

22 THE WITNESS: Correct. And, also, I think when
23 Mr. Tracey was talking about the issue size --

24 THE COURT: Yes.

25 THE WITNESS: -- what I was just trying to

1 distinguish is -- let's just be specific, so, let's come
2 back to Wachovia, for instance.

3 THE COURT: Sure.

4 THE WITNESS: So, in the case of Wachovia, I think
5 there was a Bloomberg from Michael Newman who noted the
6 Wachovia 7.98's are a humongous issue or something like
7 that.

8 THE COURT: Right.

9 THE WITNESS: And -- I don't remember whether they
10 were two billion or three billion, some really big number
11 like that.

12 And what I was concerned about is it really didn't
13 matter to me whether they were 2 billion or 1.5 billion or
14 2.5 billion. What mattered to me is; can you trade one
15 million or two million at the time or can you trade fifty or
16 a hundred million at a time. And I think my strong
17 impression from being in the market and reviewing
18 Bloomberg's, et cetera was that it's much closer to the one
19 to two million at a time.

20 So, the sense that in -- the sense in which I
21 didn't take into account the size of the issue was the fact
22 that the Wachovia 798's were a \$2 billion issue had no kind
23 of direct bearing on the calculation.

24 What I was concerned about is of that two billion,
25 how much can you trade at a time without --

1 THE COURT: Sure. But the market --

2 THE WITNESS: -- impacting the price.

3 THE COURT: -- impact idea is stated broadly.

4 Hypothetically, if you were seeing bids and offers for
5 PCDS --

6 THE WITNESS: Yes.

7 THE COURT: -- moving 371 million of it might have
8 had a market impact.

9 THE WITNESS: Yes.

10 THE COURT: But you're not saying that had you
11 traded in the underlying securities that there would have
12 been a market impact that would have offset the other
13 pricing?

14 THE WITNESS: Oh, okay. I see what you're saying.

15 THE COURT: See what I'm saying?

16 THE WITNESS: Well, okay. So, it's -- I think
17 it's kind of like this; if you -- maybe I can rephrase your
18 question --

19 THE COURT: Sure.

20 THE WITNESS: -- to make sure I understand it.

21 It's sort of like; are you asking -- you're not
22 trading 371 million of say the Wachovia 790.

23 THE COURT: Correct.

24 THE WITNESS: You're trading 371 million across --

25 THE COURT: Across 19 (inaudible) --

1 THE WITNESS: -- 19 different names. You're --

2 THE COURT: Right.

3 THE WITNESS: You're trading 371 million across 19
4 different names.

5 THE COURT: Right.

6 THE WITNESS: And I agree that's -- those are two
7 different things. Nonetheless, I think it's my experience
8 that the market -- and I agree that spreading \$371 million
9 across 19 different names is better than trying to trade
10 \$371 million with one name. No argument about that.

11 I think our view on it though was that when you
12 see that, say you have 20 or 30 million of a whole bunch of
13 names that you have to trade, and when you know that the
14 market size in each of those names is two, three, five
15 million for a single trade, that's a lot of trades you have
16 to do in each name.

17 And I think, furthermore, that it was our
18 experience that you can't -- there isn't like -- it's kind
19 of like imagine you're the German financials trader, okay?
20 And, you know, someone comes in to sell you a bunch of
21 Dresner preferred. So Dresner is a name that we own PCDS
22 on.

23 If you see that the price of Deutsche Bank
24 preferreds on the Exchange is plummeting, that's going to
25 affect the price in my experience at what you're willing to

1 buy Dresner preferreds because they're not exactly the same.

2 But they're two things that are related to each other.

3 So, I think the idea is correct that it's better
4 to trade -- it's better, in some way, to trade 20 million of
5 19 names than it is to strike 370 million in one name.

6 But it's not correct to say that it's like
7 they're, you know, trading 20 million in one name has no
8 impact on a related name especially in this type of, you
9 know, financial crisis type environment. I think you would
10 -- the market's going to enforce a lot of read across
11 between those different things, yeah.

12 THE COURT: Thank you.

13 BY MR. TRACEY:

14 Q And direct your attention to Claimant's Exhibit 2096.

15 A Yes. I see it.

16 Q If I could ask you to look at the sixth page which is
17 stamped 792 and the page that's marked 796. If you could
18 look at both of those.

19 A Yes. I see them; 792, uh-huh. Okay. And 796.

20 Q And 796.

21 A Okay. Okay. I see them.

22 Q Oh, that's clever. Thank you. I wasn't even hoping
23 for that. Okay. Good.

24 So, I think Mr. Tambe suggested that these two
25 Bloombergs suggested there was trading of a half a billion

1 dollars in a week in these securities.

2 A Uh-huh.

3 Q Is that how you interpreted these two Bloombergs at the
4 time?

5 A I'm not sure I ever put these two next to each other
6 and added three hundred and two fifty. But, in any event,
7 I'm not sure what I thought either way. When a trader says;
8 I traded north of 300 million now in this sector alone.

9 Q Did that change your view that the markets being made
10 in these preferreds were very small at the time?

11 A Well, no. I mean, in the sense that -- okay. First of
12 all, just as a matter of convention, it's very frequently
13 the case, and I don't know, I haven't talked to this trader,
14 the case that when a trader in CDS or bonds buys ten million
15 bonds and sells ten million bonds, instead of saying; I
16 traded ten million bonds. He or she will say; I traded
17 twenty million bonds, okay?

18 That's very often the case. So, I don't know if really
19 he traded 300 or a hundred and fifty million. But that's
20 sort of, from my perspective, was neither here nor there.

21 I think the idea, I guess, that he's trying to express
22 is that there's a lot of activity here. There's a lot of
23 liquidity in the market. But, to me, it doesn't foot with
24 what he's actually doing, at least in some of the names that
25 were relevant to us.

1 For instance, if you say; look. I'm like a big market
2 maker in the city, 8.4, C 8.4 which is the third preferred
3 here. I can sort through tons of liquidity. I know like
4 where the buyers are. I know where the sellers are. I would
5 say; that's great. Make me a market. And then if you said;
6 I'll make it 6570, to me, that just -- it doesn't -- what
7 everything you told me before doesn't really ring true
8 because why do you have to make the market five points wide
9 if there's so much liquidity and you know where everything
10 is.

11 Similarly, in the case of a Wachovia 7.98's, I mean, he
12 happens to make them 5964 at the end of the week and he --
13 but he makes them 4348 here. Again, you can say, like;
14 look. I'm the biggest trader of the Wachovia 7.98's. I
15 traded lots of these things. Come to me if you need
16 liquidity if you want to trade. But if you make the market
17 five points wide on something that has a dollar price on the
18 mids of 45, it doesn't feel like that much liquidity to me
19 if the bid offer spread is ten percent of the value of the
20 thing that's being traded.

21 So, I think what was important to me was just seeing
22 the actual width of markets that people were willing to
23 make. And it's true that in certain names, the bid offer
24 spread was tighter. For instance, in Wells Fargo, the bid
25 offer spread at the end of the week was tighter at 9395.

1 But Bank of America was a little tighter at 7982. But
2 in the case of City and Wachovia, if you say; look, I'm
3 trading tons of City and Wachovia. I'm a great market maker
4 in this -- it's a little bit at odds with the idea of making
5 such a wide market, in my mind.

6 Q And, just for clarity, what is the relationship between
7 liquidity in a market and the size of the bid offer spread
8 that's being offered?

9 A Well, I think, generically, my experience is that when
10 there's a lot of liquidity, the bid offer is really narrow
11 because you can buy something and sell it instantly or sell
12 something and buy it back instantly and you can do it in a
13 lot size and there isn't a lot of uncertainty about where
14 you can do that, yeah.

15 Q Okay. And I think Mr. Tambe also asked you about this
16 Exhibit whether this represented all of the screen shots of
17 the preferred prices that you collected at the time you did
18 your valuation. Do you recall that?

19 A I recall he asked me that. Yes.

20 Q And is this all -- is this all of the screen shots in
21 this Exhibit?

22 A This Exhibit does not contain all of the screen shots
23 that I recorded at the time.

24 MR. TRACEY: I'd like to mark a new Exhibit, Your
25 Honor, which is not in book. It is Claimant's Exhibit 2129.

1 THE COURT: Okay.

2 (Pause)

3 THE COURT: Thank you.

4 (Pause)

5 BY MR. TRACEY:

6 Q I'll give you a moment to look at it but the question
7 is going to be whether you can identify these screen shots.

8 (Pause)

9 A Yes. I can identify them.

10 Q What are they?

11 A I think these are the screen shots that I saved of the
12 various preferreds that I used to -- well, these are the
13 sources of the prices that I punched into the sheet called
14 PCDS Data that we were looking at earlier that I used to do
15 the valuation. I didn't use every preferred in all cases
16 but this would be the source data.

17 Q Does this cover all 19 referenced entities?

18 A Sorry. I have to count. One second.

19 (Pause)

20 A One, two (inaudible) --

21 I think it has everything, yes.

22 Q Okay. I'd like to change the subject and ask you some
23 questions about CARB.

24 A Okay.

25 Q Mr. Tambe asked you some questions about a remittance

1 report dated, if I remember correctly, it's September 15,
2 2008; do you recall that?

3 A Yes.

4 Q And you didn't look at that remittance report when you
5 were doing your valuation of CARB, correct?

6 A I did not.

7 Q Why didn't you look at the remittance reports?

8 A Well, generally, if I were to try to look for that
9 data, I would probably start with INTEX and I didn't use
10 INTEX in this case.

11 Q And would you tell the Court why you didn't use INTEX
12 to value the CARB position you have?

13 A Sure. So, I think it's important to distinguish what
14 INTEX gives you and what INTEX doesn't give you. INTEX is a
15 cash flow engine. It tells you if you input certain
16 assumptions, like this many borrowers prepay, this many
17 borrowers default and so on, what will the cash flows -- how
18 will the cash flows run through the waterfall in the
19 securitization and what cash flows will your bond get.

20 And you need something like INTEX or a similar cash
21 flow engine for these type of securitizations with consumer
22 loans because you don't know what the underlying consumers
23 are going to do. They're going to behave in some way which
24 is uncertain.

25 So, what -- that's what INTEX gives you. If you give

1 the assumptions about what borrowers will do, it will give
2 you an output which is what will the cash flows of your bond
3 be.

4 What INTEX does not give you is it doesn't give you the
5 price of those bonds. So, by analogy, if you think of a
6 corporate bond, I could say there's a six percent bond
7 maturing in ten years from, you know, issuer "X", who --
8 whatever it is, IBM. What's the price?

9 INTEX, it gives you the part that says it's IBM, it's
10 six percent and matures in ten years.

11 The market gives you the answer to what's the price.
12 So, I want to be clear that I think, yes, from time to time,
13 did I run INTEX in CARB? Definitely. Did I run INTEX in
14 mortgages? Yes. I ran it all the time.

15 And I'm not saying that running INTEX wouldn't have
16 shed some light on the problem. Running INTEX definitely
17 would shed light on the problem.

18 THE COURT: But did you -- did you -- do you tell
19 INTEX and assume this default rate on this tranche or does
20 INTEX pull that from somewhere else?

21 THE WITNESS: No.

22 THE COURT: Or neither?

23 THE WITNESS: Maybe both kind of, I guess. INTEX
24 tells you what the past is, okay? So, assuming INTEX is up-
25 to-date, it will tell you -- it will summarize some of the

1 information that was in the remittance report.

2 THE COURT: Okay.

3 THE WITNESS: There are this many loans
4 delinquent. There are this many that defaulted. This many
5 prepaid. And, so, you can get a summary time series of
6 where all those different behaviors have been.

7 But you have to tell INTEX how to extrapolate that
8 out into the future, okay? Default's worth three percent
9 last month; are they going to be three percent next month or
10 maybe, more typically, one would run a range of scenarios;
11 four, five, six, seven, whatever they are. And, then, INTEX
12 in each of those scenarios, given each of those assumptions,
13 will give you the cash flows of the bonds.

14 THE COURT: So you tell INTEX directionally
15 whether things are going to get better or worse?

16 THE WITNESS: Correct. You have to supply those
17 assumptions.

18 So, I think the answer to the question -- so --
19 and, so, just to finish the thought, the -- but by running
20 those kinds of different assumptions, you can get an idea as
21 to; gosh, is this bond very sensitive to defaults or is this
22 bond somewhat less sensitive to default. And that's the
23 sense in which it does shed some light on the problem.

24 If you look at the different components of CARB,
25 it might tell you; okay, this bond is relatively more risky.

1 This bond is relatively less risky.

2 But, as I said, what INTEX doesn't give you is it
3 doesn't give you the thing that you need to get back to
4 price, which is either what the price of the bond is, the
5 market tells you that; and it doesn't tell you -- or,
6 alternatively, it doesn't tell you the discount rate at
7 which you would discount those cash flows to arrive at a
8 price today in the same way that if I tell you -- and here's
9 -- there's an IBM bond that has a six percent coupon and
10 matures in ten years, it tells you what the parameters of
11 the bond are. But you don't know if that should trade at 95
12 or it should trade at a hundred or it should trade at a
13 hundred and ten. The market tells you that information.

14 BY MR. TRACEY:

15 Q And why didn't you have that information?

16 A Well, we didn't have that information because we didn't
17 have a price on either -- to the CARB itself because Lehman
18 was gone; nor, did we have prices on the underlying ABS
19 CDS's.

20 Q Mr. Tambe also asked you some questions about why you
21 didn't look at Bloomberg prices for the underlying bonds.
22 Do you recall that?

23 A Yes.

24 Q And why didn't you look at those?

25 A Oh, well, I think for cash securities like that, I'm

1 not sure we ever really used Bloomberg to price those small
2 ABS tranches. Those tranches were between 30 and 60 million
3 dollars in size and we just didn't think that that was going
4 to be a reliable -- Bloomberg was going to be a reliable
5 price source because those tranches, typically, don't trade
6 very frequently.

7 Q And, just to be clear, again, does Bloomberg represent
8 prices of actual transactions?

9 A I think Bloomberg prices, if they knew about it, I
10 guess, it could represent it. But, in general, it's just a
11 quotation. It's just a pricing source. Yeah.

12 Q And, just for context, when you entered into the CARB
13 trade in the first place, did you look at the Bloomberg
14 prices of the underlying bonds?

15 A No. I think I'd never looked -- in all the times I
16 traded CARB, I never looked at the Bloomberg prices of the
17 bonds.

18 Q In -- when you trade ABS, generally, do you look at the
19 Bloomberg prices for the underlying bonds?

20 A No. At that time, we did not. I think, now, the
21 reporting is a little bit better. But, at that time, for
22 these -- for instance, when we were selling short, sub-prime
23 mortgage securitizations, there -- we did hundreds and
24 hundreds of these trades and we never looked at the prices
25 on Bloomberg because -- well, then I guess that was the

1 whole point. The ABS/CDS market was a way to trade these
2 things without having to rely on trading this little tiny
3 cash tranche that really never traded. Yeah.

4 THE COURT: And you never -- so, for RNBS or CNBS,
5 you never diligenced down to remittance reports to see
6 whether -- how the case was coming in on the underlying
7 assets?

8 THE WITNESS: No. Well, I --

9 THE COURT: (Inaudible) --

10 THE WITNESS: No. I think we -- definitely, we
11 did use remittance reports from time to time in RNBS when
12 you had to -- this was -- I would say that this was more
13 post-crisis. Pre-crisis, we kind of used the data from
14 INTEX that summarized the remittance report data and we
15 would, you know, often graph that for ourselves and, you
16 know, we had a model, actually for RNBS that forecasted
17 those different variables.

18 So, I don't want to give the impression that we
19 didn't use the remittance data. We did in RNBS.

20 What I'm saying is that in RNBS, we didn't try to
21 look at the price on Bloomberg of the underlying cash
22 security because we just didn't think it would mean anything
23 to us. Yeah.

24 BY MR. TRACEY:

25 Q Mr. Tambe showed you some Bloomberg prices that were

1 gathered long after September 15th; do you recall that,
2 2008?

3 A Is -- are you referring to the spreadsheet for whom the
4 author is Michael Dearmont (ph) from --

5 Q Correct.

6 A -- 2012? Yes. I remember that.

7 Q Let's bring up that Exhibit. It's Exhibit 5433.

8 A Okay.

9 Q Do you recall Mr. Tambe showing you this document?

10 A Yes, I do.

11 Q And do you -- can you -- can we look at the medi data
12 on this?

13 (Pause)

14 Q It's cross -- it's tab 109 in the black book.

15 A Okay.

16 Q Do you have that there?

17 A One second.

18 (Pause)

19 A I see it.

20 Q And what was the date that that document was created?
21 If you can read it.

22 A It says; date created 7/21/2012.

23 Q And do you recall what was going on with your claim
24 against Lehman in July of 2012?

25 A No, not really, actually.

1 Q And did you -- do you recall, looking at these prices,
2 all those years later?

3 A Yes. I mean, I recall performing analysis of the bonds
4 at these given prices; yes.

5 Q And, during that period, what -- was that during a
6 period when QBT was having discussions with Lehman about the
7 claims?

8 A Yes, I think so. But I don't have a lot of specific
9 recollection. But, yes.

10 THE WITNESS: May I request to go to the restroom?

11 THE COURT: Of course.

12 (Laughter)

13 THE WITNESS: Thank you.

14 MR. TRACEY: Lawyers don't do that. You have to
15 ask.

16 (Laughter)

17 THE COURT: (Inaudible) conclude by five thirty or
18 so today; aren't we?

19 MR. TRACEY: Yes.

20 THE COURT: Okay. And we need (inaudible) --

21 (Recessed at 4:38 p.m.; reconvened at 4:50 p.m.)

22 THE COURT: Home stretch, Mr. Chu.

23 THE WITNESS: I hope so, Your Honor.

24 BY MR. TRACEY:

25 Q You were asked some questions on cross-examination

1 about using GMAC as a proxy for changes in prices of CARB,
2 do you recall that?

3 A I do.

4 Q And I think you said that the underlying trusts that
5 issued the bonds were bankruptcy remote?

6 A That's right. It was structured to be that way, yes.

7 Q And were you aware of that at the time you valued CARB
8 using GMAC?

9 A Yes, I was.

10 Q And did that affect your belief that GMAC was a
11 reasonable proxy per the change in price?

12 A No, we knew from the beginning that the securitizations
13 were structured to be bankruptcy remote.

14 Q And why, if the structures are bankruptcy remote, would
15 you think that the price of a CDS on GMAC would be
16 correlated with that?

17 A Well, it --

18 MR. TAMBE: Same objection in terms of analysis as
19 to what he knew at the time versus what he may have divined
20 since --

21 MR. TRACEY: This is strictly limited -- I'm
22 sorry.

23 BY MR. TRACEY:

24 Q This is strictly limited to what you knew at the time
25 and what your thinking was.

1 A Yes. So -- I mean, going back to the inception of the
2 transactions, I think I had mentioned previously that we had
3 booked all of these transactions in an account called
4 GMAC/hedge. So in our minds, these securitizations from
5 vintages 2006 and 2007 were kind of representative, I guess
6 you'd say, of some of the risks that GMAC was taking in the
7 auto finance business and we always felt from the beginning
8 that there could be a correlation between them.

9 In fact, we actually felt that there was a reasonable
10 chance that the securitizations could actually do much worse
11 than GMAC itself, because even though they're structured to
12 be bankruptcy remote, we had seen many cases of individual
13 securitizations from, say, the mortgage issuer Countrywide,
14 for instance, where the mortgage securitizations, the
15 subordinate triple BBB tranches, actually basically went to
16 zero, but Countrywide itself, as an important financial
17 institution, wound up being bought by Bank of America. So
18 we actually thought that there was a chance that the
19 securitizations could do significantly worse than GMAC.

20 But I think that in general we felt the idea was simply
21 that they're both pools of auto loans. They're
22 representative of the types of auto loans that GMAC was
23 making. And we felt that there should be a correlation
24 between them.

25 Q Do you recall that Mr. Tambe showed you one of the

1 confirmations for a CARB transaction?

2 A Yes, I do.

3 Q And pointed out that the CARB is a package of eight
4 separate CDS's, do you recall that?

5 A I recall that.

6 Q And you agree with that, right?

7 A I agree with that, yes.

8 Q And -- but whenever -- when Lehman introduced CARB to
9 you, did they ever suggest that you could trade the
10 individual CDS's separately?

11 A Do you mean in the course of trading CARB itself, or do
12 you mean just as a general matter that no one could trade
13 them separately from one --

14 Q No, with respect to CARB?

15 A No. It was understood that CARB was this individual
16 package of these eight CDS's that were, you know, glued to
17 each other, basically.

18 Q Did they ever -- you know, did you ever ask them if you
19 -- did they ever suggest to you that you could trade one of
20 them and you could not trade the other seven?

21 A No. Whenever I traded CARB it was understood we were
22 all trading at -- we were trading the whole package at once.

23 Q Okay. I'd like to turn to a slightly different subject
24 and that is your marking of your CDS positions on your own
25 books and records. I'd like to start with CARB and ask you

1 what the source was for the pricing for CARB when you marked
2 your books and records prior to September 15th, 2008.

3 A We used Lehman's marks.

4 Q And did you ever use the pricing service that provided
5 prices on the underlying bonds?

6 A No, we did not. We used Lehman's marks.

7 Q Did you ever use Bloomberg pricing for the underlying
8 bonds to mark your positions in CARB?

9 A No.

10 Q Let me turn your attention to your marking of your PCDS
11 on your books and records. Do you recall being asked some
12 questions about a collateral or a margin call on September
13 16th?

14 A Yes.

15 Q Let me show you that document, again it's Defendant's
16 Exhibit 5169.

17 A One moment.

18 THE COURT: Is that in the black book?

19 MR. TRACEY: That is tab 93 in the black book.

20 THE COURT: Thank you.

21 BY MR. TRACEY:

22 Q Okay, and again just to orient our -- orienting
23 ourselves, this is an e-mail dated September 16th, 2008, at
24 the bottom.

25 A Correct, yes. September 16th, 2008.

1 Q And that is an e-mail from Kelly Feng of QVT to
2 Patricia Blanco (ph) of Lehman?

3 A Yes.

4 Q And it's asking -- essentially, this is asking for a
5 margin payment from Lehman of \$12 million for QVT and \$1.3
6 million for Quintessence, is that correct?

7 A That's what it says.

8 Q Okay. And Mr. Tambe asked you on cross-examination
9 whether you sent an e-mail to somebody objecting to this
10 margin call. Do you recall that?

11 A I recall the -- yes, the general topic, yeah.

12 Q And why didn't you send an e-mail to somebody objecting
13 to this margin call?

14 A Well, I'm not even sure on what -- I mean, assuming I
15 had seen the e-mail, I'm not sure on what basis I would
16 object to it. I think I said I don't actually know where
17 Kelly's numbers are even coming from in this case. And to
18 the extent that LBSF was able to make a payment to us, I
19 mean, that would be helpful to our investors. So I'm not
20 sure why I would object to it in any event. Yeah.

21 Q And focusing on the mark to market change, do I read
22 this quote correctly that this relates to, at least in part,
23 to a mark to market movement from 9/12 to 9/15?

24 A Well, it says there is -- I see there's an MTM, mark to
25 market movement, from EOB, I think that's end of business,

1 9/12 to 9/15 for plus 12 million in QVT and 1.3 million in
2 Quintessence. So, yes, I think it relates to the movement
3 between those two dates.

4 Q And did you make any -- did you remark your PCDS
5 positions between September 12th and September 15th?

6 A No, I did not.

7 Q So would the marks on QVT's books reflect the changes
8 in the value of PCDS from September 12th to September 15th?

9 A No, not in any material way, just maybe there was
10 something really small like, you know, a couple more days of
11 interest on the CDS accrued, but not in the remarking at
12 month end sense, no.

13 Q And the same question for CARB, did you mark your CARB
14 position on September 15th?

15 A No, we did not remark the CARB position on September
16 15th.

17 Q So would your mark on your own books for CARB reflect
18 any change from September 12th to September 15th?

19 A No, I don't think it would.

20 Q Let me direct your attention to another document that
21 Mr. Tambe asked you about. It's Exhibit 5130, which is tab
22 44 in your -- in the black book.

23 A Okay.

24 Q And I want to direct your attention as he did to the
25 attachment which is a landscaped --

1 A The third page?

2 Q -- spreadsheet of some kind.

3 A Do you mean the third page? Okay, yes, I see it.

4 Q Yes. And I think he focused your attention on the fact
5 that the value on the books for LBSF positions was
6 essentially the same as the collateral against that, is that
7 -- do you recall that?

8 A Well, yeah, I -- if I recall correctly, they -- he was
9 referring to the third and fourth lines called LBSF and LBSF
10 margin, which have on the right side 116.898 million and --
11 on the other entry, minus 117,285,000.

12 Q And is it surprising to you that the value of the
13 positions on the books is approximately equal to the
14 collateral?

15 A Is it surprising? No, not particularly.

16 Q Are those two things related in any way?

17 A Well, I mean, to the extent that we're using Lehman's
18 marks for a significant part of the portfolio, it would
19 surprise me that our marks are similar to theirs. And that
20 would just say that we've called them for all the margin
21 that we can call them on, the fact that the two numbers are
22 the same. That's all it's telling me.

23 Q And does that mean that upon termination of those
24 positions on September 15th, that you were fully covered for
25 any losses?

1 A No, it does not.

2 Q Why doesn't it mean that?

3 A Because first of all, even if there were no movement in
4 the market at all, one would have to calculate the
5 replacement value, which is different than a collateral
6 value. But secondly, and more importantly, there was a big
7 move in the market over that time and indeed to the extent
8 that the marks that we were using were, you know, frequently
9 829 marks, there was actually a market movement over a
10 larger period of time. So there's both a market movement
11 component and there was also a, you know, replacement value
12 versus midmarket collateral value component.

13 Q And when you referred to direct exposure in your e-mail
14 on September 14th, were you including in that direct
15 exposure those potential losses you just described?

16 A No, there's no contemplation in this e-mail of the jump
17 or the change in the market value.

18 MR. TRACEY: May I have a moment, Your Honor?

19 THE COURT: Sure.

20 MR. TRACEY: I have nothing further, Your Honor.

21 THE COURT: Thank you. Mr. Tambe, anything?

22 MR. TAMBE: Just a couple of points, Your Honor.

23 RECROSS EXAMINATION

24 BY MR. TAMBE:

25 Q Mr. Chu, the document you were just looking at, Exhibit

1 5130, that showed that you were holding about \$117 million
2 in collateral from Lehman, correct?

3 A Yes.

4 Q Because you were in the money facing Lehman on a mark
5 to market basis for approximately that amount, 116 million,
6 correct?

7 A Yes.

8 Q So from the inception of the trades as spreads have
9 widened and markets have moved, Lehman had posted collateral
10 to you to compensate you for those changes in market
11 movement, correct?

12 A Lehman had posted collateral to us, yes.

13 Q And that was to reflect the changes in the market,
14 correct?

15 A That was to reflect the changes in the collateral value
16 as they calculated them.

17 Q Well, not just the collateral value, Mr. Chu, in the
18 value of the positions.

19 A Yes, sorry, I didn't speak precisely. That was -- the
20 collateral was posted in respect of the positions as they
21 valued them.

22 Q So as of the early termination date, do you have
23 payments from Lehman for all of those changes in value, from
24 inception of the trade through September 15th, 2008,
25 correct?

1 A Well, we had a -- yes. We had a positive mark to
2 market per Lehman's marks. And they had posted the amount
3 of that positive market to market to us.

4 Q Right. And it's not just Lehman's marks. It's the
5 marks that you had adopted for your own purposes and for you
6 books and records, correct?

7 A Yeah, we often used the Lehman marks for marking our
8 own book, yes.

9 Q And you believed that was entirely consistent with your
10 obligations to your investors to mark your books in that
11 fashion, correct?

12 A Well, interim month there really isn't official
13 reporting to investors because no capital is moving in and
14 out. But yes, at month end, to the extent that we used
15 Lehman marks, we thought doing so was consistent with our --
16 the way we priced securities and derivatives, yes.

17 Q And so with respect to the CARB trades, you were
18 holding collateral against the valuation of the CARB trades
19 as of September 15th, 2008, correct?

20 A We were holding collateral, yes.

21 Q You had an extended discussion about Intex and what
22 Intex can and can't do. Do you remember that?

23 A I do.

24 Q We also discussed, I believe on Friday, that CARB,
25 unlike PCDS, is a pay as you go swap, correct?

1 A It is a pay as you go swap, that's right.

2 Q Therefore, cash flows on the underlying are what drive
3 cash flows on the CDS, correct?

4 A That's right.

5 Q And what Intex gives you is cash flows, correct?

6 A Intex is a cash flow engine, that's right.

7 Q And unless there are shortfalls in cash flows, you
8 don't get paid anything as the protection buyer on a pay as
9 you go CDS, correct?

10 A As a protection buyer, that's right, you pay out --
11 yeah, you would pay out the coupon basically, yeah.

12 Q Right. So that's money you'd be paying to Lehman over
13 the remaining life of these contracts if they had not been
14 terminated, correct?

15 A That's right, yes.

16 Q And by terminating the trades, you were relieved of
17 that obligation to pay Lehman on a going forward basis?

18 A You mean the 150 basis point coupon?

19 Q That's right --

20 A That's right. Yes, we were no longer paying the
21 running coupon.

22 Q And the cash flow calculator in Intex could have told
23 you on 9/15/2008 what the expectations were for future cash
24 flows on those same underlying bonds, correct?

25 A No, Intex wouldn't tell you what the market

1 expectations for those cash flows would be.

2 Q You had never previously used GMAC to price or value
3 the CARB trades in your portfolio, correct?

4 A No, because we had markets from Lehman Brothers.

5 Q And even though you housed those trades in your GMAC
6 hedge account, that's not a calculation you ran, which is
7 using GMAC spreads to value the cost, right?

8 A No, we didn't. We didn't, that's correct. We used
9 CARB prices from Lehman to value CARB.

10 Q Let's switch to PCDS, all right? You were holding
11 collateral on 9/15/2008, consistent with the valuation of
12 the PCDS positions on your books at that point in time,
13 correct?

14 A Well, we would -- we were holding collateral, which in
15 aggregate was basically equal to Lehman's marks. As to
16 whether our marks are exactly the same as Lehman's marks on
17 9/12, I'm not certain. I think they would have been in the
18 zone, but I don't think -- I don't know that they were
19 exactly the same, because our mark was basically the 829
20 mark.

21 Q And the collateral you held with respect to the PCDS
22 positions, that reflected changes in spreads after the date
23 on which you had put on those trades with Lehman, correct?

24 A Yes, it was the mark to market for a trade done prior
25 to that date.

1 Q Right, now unlike CARB in BCDS, you need to have a hard
2 default or a deferral to get paid the protection payments
3 you're owed on a BCDS, correct?

4 A You have to have a credit event as defined in the
5 confirmation.

6 Q That's right. And there had not, in fact, been credit
7 events as defined in the confirmation was of 9/15/2008 for
8 the 19 names, correct?

9 A No, there had not been any credit events in those
10 names.

11 Q And your valuation methodology, the par minus preferred
12 equity price, effectively treats the calculation as if there
13 had been a credit event on every single reference
14 obligation, correct?

15 A No, that's wrong.

16 MR. TAMBE: No more questions, Your Honor.

17 THE COURT: All right. Mr. Chu, thank you very
18 much.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: I greatly appreciate your patience
21 over these last couple of weeks.

22 THE WITNESS: Okay.

23 THE COURT: You can step down.

24 THE WITNESS: Thank you very much, Your Honor.

25 THE COURT: Okay. Why don't we take a few minutes

1 to talk about coming attractions? So by my count,
2 Mr. Tracey, we are a full two days behind.

3 MR. TRACEY: We're working to fix that.

4 THE COURT: Okay.

5 MR. TRACEY: May I hand up a first amended
6 testimony schedule --

7 THE COURT: Sure, does --

8 MR. TRACEY: -- which I've shared with --

9 THE COURT: Do these folks have it?

10 MR. TRACEY: Yes.

11 MR. TAMBE: Got it this morning, Your Honor.

12 MR. TRACEY: Okay, thank you. I don't want to
13 overplay this, but I will point out that so far this
14 schedule has held perfectly.

15 MR. TAMBE: He's putting it out there, Judge.

16 THE COURT: The one you just handed to me?

17 MR. TRACEY: Yes.

18 THE COURT: Very funny.

19 MR. TAMBE: We should backward test it.

20 THE COURT: Okay.

21 MR. TAMBE: We can go off the record for this,
22 Your Honor, so that --

23 THE COURT: Yeah, we -- I think we can.

24 (Recessed at 5:12 p.m.; reconvened at 5:18 p.m.)

25 MR. TRACEY: Ma'am, may I raise one more point,

1 please?

2 THE COURT: Sure.

3 MR. TRACEY: This relates to something we talked
4 about before, which is a witness named Megan Philbin.

5 THE COURT: Yes.

6 MR. TRACEY: Who we subpoenaed but she's --

7 (Recessed at 5:18 p.m.; reconvened at 5:21 p.m.)

8 MS. SAWYER: Premature to do so and we don't know
9 whether or not the witness will be unavailable given the way
10 the pace of the hearing is going. Additionally, we
11 discussed this yesterday and to the extent Ms. Philbin's
12 designations go in, we had our own affirmative designations
13 and we haven't see, sort of, combined sets. So I think we
14 need to work out some logistics -- certainly --

15 THE COURT: Well, that level you can certainly
16 work out.

17 MS. SAWYER: Yeah.

18 THE COURT: Right?

19 MS. SAWYER: There's also extensive objections to
20 her deposition testimony that would need to be resolved.

21 MR. TRACEY: And we pointed that out, but there is
22 no issue that it's admissible. I mean, I just -- the
23 stipulation specifically says that it is admissible and that
24 it meets the test of unavailability and they want to object
25 on that basis, so I'm surprised to (indiscernible) an

1 objection.

2 MS. KELLER: Your Honor, just to add this to
3 abhorrent (indiscernible) -- okay, thanks, Jay.

4 UNIDENTIFIED SPEAKER: In a couple of minutes,
5 I'll be --

6 THE COURT: I'm having a hard time knowing what's
7 going on at the moment, to be honest. I mean, there's
8 something going on here.

9 MR. TRACEY: I'm not sure what it is. Let me read
10 you the -- I can read you the stipulation.

11 THE COURT: Okay.

12 MR. TRACEY: It says, number one, Ms. Philbin is
13 unavailable to testify at the hearing and as it is currently
14 scheduled on account of her medical condition.

15 THE COURT: Okay.

16 MR. TRACEY: Two, neither party will object to the
17 use of Ms. Philbin's deposition testimony at trial, pursuant
18 to Federal Rule of Civil Procedure 32(a)(4) --

19 THE COURT: Okay.

20 MR. TRACEY: -- which is what provides for the
21 admissibility of unavailable witnesses' testimony. So --
22 and then it says for the avoidance of doubt, all objections
23 asserted during Ms. Philbin's deposition are preserved and
24 may be asserted during the hearing. So I think it's very
25 clear.

1 THE COURT: So is the issue simply one of timing?

2 MS. SAWYER: The issue is simply one of timing. I
3 mean, to think if the witnesses' -- if the hearing gets
4 extended and the witness is available to testify live, then
5 that's the appropriate thing that should happen in this
6 situation.

7 THE COURT: But Mr. Tracey is saying that in terms
8 of their presentation, that they want to put it in in their
9 case in chief.

10 MS. SAWYER: I hear that.

11 THE COURT: Right?

12 MR. TRACEY: Right, and that's -- I --

13 THE COURT: As a --

14 MR. TRACEY: I would have thought we had the right
15 to determine what we put into evidence in our case.

16 MS. SAWYER: I mean, it's certainly up to you, but
17 I think until we know whether or not she's available, it
18 seems premature to make the decision.

19 THE COURT: Well, let's hypothesize that she
20 becomes available because it's April and we're still doing
21 this. Then what? Then you would say that -- then what
22 would happen? Mr. Tracey would still say he gets to put the
23 deposition transcript in. And you might -- no?

24 MS. SAWYER: I would say no because the rest of
25 the stipulation says that they will not object to our

1 efforts to have her -- to issue a trial subpoena and have
2 her testify live if the hearing gets extended. So I think
3 what would happen is she would testify live, but you would
4 have already read her deposition testimony, which would be
5 the problem that we're presented with.

6 MR. TRACEY: It's not a problem. If -- we all
7 agreed this is admissible testimony. So if she comes and
8 testifies again, presumably it will be consistent with that.
9 It was under oath, and you cross-examined, and it's
10 testimony. So I just don't see the issue. And I feel very
11 unfair to be precluded from putting evidence that I want to
12 put in in my case, especially with the stipulation I have,
13 which allows me to do it. If they wanted to say you can't
14 put it in in your case, they could have asked for that and I
15 would have refused, and we would have been before Your
16 Honor.

17 THE COURT: I mean, it seems to me that -- if she
18 becomes available again, either to testify live or for you
19 to continue her deposition to ask questions that you would
20 have asked her had you known then that she wouldn't be
21 available, you can do that. But I don't see the -- it's a
22 unique circumstance. I don't see the prejudice in her
23 testimony being put -- placed in the record and subject to
24 your objections and we'll go from there.

25 MR. TRACEY: Okay.

1 MR. TAMBE: Our objections are in our counter
2 designations, so you have --

3 MS. SAWYER: And our affirmative designations. I
4 think it should be an entire package.

5 MR. TRACEY: It will be everything. No, it will
6 be a single transcript. It won't be separate, all right?

7 MS. KELLER: Your Honor, we have a marked up
8 transcript that shows QVT's designations and in a different
9 color, Lehman's designations. And we have a combined list
10 of each parties' objections and a -- copies of all the
11 exhibits that are referred to. And we would propose to let
12 Jones Day look at that and then give that package to Your
13 Honor.

14 THE COURT: Okay. You can take the entire week to
15 do it because I'm not going to be doing this the next six
16 days. So --

17 MS. KELLER: Okay, thank you.

18 THE COURT: Okay?

19 (Chorus of thank you)

20 THE COURT: All right. We'll see you on Monday.
21 Thank you.

22 (Chorus of thank you)

23 (Whereupon these proceedings were concluded at 5:26
24 p.m.)
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I N D E X

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C E R T I F I C A T I O N

We, Sherri L. Breach, Tracey Williams, Nicole Yawn,
Penny Skaw and Jamie Gallagher, certify that the foregoing
transcript is a true and accurate record of the proceedings.

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